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THE
S O U R C E,
THE
STRENGTH,
AND THE
TRUE SPIRIT
OF
L A W S.

In THREE PARTS.

IN WHICH THE
ERRORS of M. *de MONTESQUIEU*,
and some other EMINENT WRITERS,
are occasionally considered.

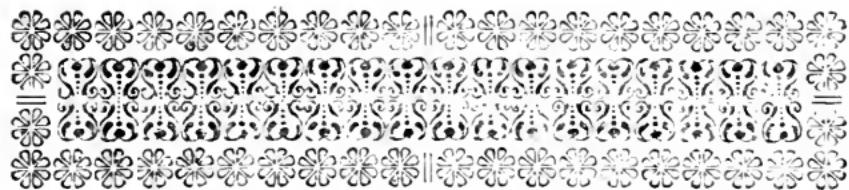
To which are added,

E S S A Y S
On the Natural Origin of
POLITICAL GOVERNMENTS.

By the Count De CATANEO,
A noble *Venetian*, in the Service of the King of *Prussia*.

L O N D O N:
Printed for LOCKYER DAVIS, near *Salisbury-Court, Fleet-street.* 1753.

H.C. 800.1753.D42



T O

His MAJESTY

THE

KING of PRUSSIA.

SIR,

THE Analogy between the
Design of this Work,
and your Majesty's Paternal
Care for your People, is so

A 2 great

Dedication.

great and so manifest, that every Reader must immediately perceive your Majesty to have an exclusive Right and Title to it.

WHAT your Majesty has recently undertaken and achieved, in regard to the Reformation and Execution of the Laws in your extensive Dominions, loudly proclaims to the World, that you have truly drawn from the *Source*, and are inspired by the *Strength*

Dedication.

Strength and the true Spirit of Laws.

YOUR Majesty has tasted the Pleasure and understood the Duty of making your People happy, by Justice and Equity, by Integrity of Heart and Rectitude of Mind, from whence flow Honesty in Commerce and Plenty in a State: This is acknowledged by the whole World; and 'tis this that raises your Majesty's hap-

A 3 py

Dedication.

py Reign to the highest Pitch of Glory.

BUT, more than this, your Majesty has transcended even Imagination itself: For after having chained Victory to your Standards by formidable Armies, and by a Conduct peculiar to your Majesty alone, you could not be satisfied with all that Honour and Glory, till you had encreased its Splendor by the brightest Beams of the Eternal *Sun of Righteousness.*

THE

Dedication.

THE Value of such an Example, enhanced by being so rare in History, and the Moderation with which your Majesty enjoys its divine Fruits, crowns the true Happiness of your People, and at once attracts and fixes for ever the Admiration and Applause of all the Earth.

WERE my Heart capable of containing the whole of that Admiration and Applause, it would be impossible for me to be more penetrated than I am

Dedication.

with such Sentiments, or with
that Respect, Veneration and
Submission, with which I shall
ever remain.

Your Majesty's

most humble,

most obedient, and

most faithful Servant,

De Cataneo.

THE

Author's Advertisement

TO THE

READER.

FOR an *Italian* to write in *French*,
I must confess, is too bold an
Undertaking; but what is it that a
Man will not attempt for the publick
Good? The Language of *France* is
the

the most prevalent in *Europe*, and withal the most natural and free ; Circumstances not a little to the Honour of that learned and polite Nation.

FOR twenty Years past I have indeed carried on a literary Correspondence in *French*, and may perhaps have tolerably well acquitted myself of it : But there is a wide Difference between writing private Letters, and composing for the Press ; and I must either submit to it, or not publish this Work. Besides, the Authors at whom most of my Reflections are levelled, might never come to the Knowledge of it unless by unfaithful Reports, had I continued to write in *Italian*, as I have done on other

ther Subjects already published ; and it might even be deemed impertinent, to attack them in a Language which, possibly, they do not understand.

IT may probably be said, of this Work, that it is faulty in the Stile, that the Language is not pure and elegant, nor the Orthography modern. I shall give up all this ; and observe only, that if I do not always express Things so well as it might be wished, 'tis owing to my writing in a Language that is not natural to me.

BUT if these Excuses should not be allowed, I should nevertheless be justified by the great Desire I ought

to have to speak to my King in a Language which he delights in, and is thoroughly Master of: Neither can I labour without having his Royal Service and supreme Approbation in View.

I ALLOW before-hand all the Criticisms that may be made on the Turn of Phrase, which must needs sometimes lean towards the *Italian*, as also on the Stile, which is not uniform throughout, and on some Terms that may be obsolete; for living Languages are like the Men the *Platonicians* speak of, *idem & alterum*. In short, if I have explained myself sufficiently, it is as much as can be expected from a Foreigner.

I SHALL

I SHALL not, however, shew the same Unconcern about a Criticism on my Sentiments ; and as I shall endeavour to profit by the Knowledge and Reflections of such learned Men as persuade and convince, I shall take no Notice of all those who, not knowing how to explain themselves, impertinently knock one down with a Heap of pedantic Authorities and frivolous Arguments.

As the Merit of the Author of *The Spirit of Laws* had long prepossessed me in Favour of some of his former Pieces, I immediately set about canvassing that Work, dazzled with the Title and Design of it. I found the

the Enterprize magnificent, and worthy of the Author's great Genius : It abounds with ingenious Thoughts, learned Arguments, and noble Sentiments ; though sometimes in so long a Career, his Mind unbends and flags ; and too often he wants Courage to shake off a certain Yoke that cramps his Ideas.

As I did not expect to see him act the Part of a rigid Divine, I was the less startled at certain Propositions, which have shocked a scrupulous Critic, for want of putting a right Construction on the Author's Words and Intention. I should be very sorry to have done the same in some Remarks I have occasionally made on certain Propositions

tions which I could not relish. But I hope I have, in those Remarks, preserved all the Regard due to an Author of his distinguished Birth, Rank, and Merit.

As for the rest, if we are not agreed about the essential Article, *Revealed Religion*, to which I inviolably adhere; What matters it in this Case? Is it not lawful to reason about Law, Politicks, Philosophy, and Morality also, with *Heathen Philosophers*, *Rabbins*, *Mufti's*, *Gymnosophists*, and all the *Literati* of *China* and *Japan*?

HOWEVER, it would be intolerable Injustice, to impute Irreligion to the
Author

Author of *The Spirit of Laws*, after all that he himself has said of it in his Work, as well as in his prudent Apology, which I cease not to admire, on Account of the incomparable Tranquillity he therein manifests. Surely a Man must be very certain of what he is about, to fight thus coolly and deliberately.

So much by way of Preface.



THE
S O U R C E
O F
L A W S.



P A R T I.

C H A P. I.

HERE is nothing more evident, than that human Nature, from its earliest Existence, is endowed with certain Dispositions and Inclinations, which gradually disclose themselves in Proportion as the Machine of the human Body acquires a proper Consistence. Hence it is, that the Spirit and the

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Idea

Idea of the Machinist cannot be manifested, but by Degrees, as the Parts of the Machine formed by him grow perfect and fall into the Order and Connection he intended ; although the spiritual Idea and the Design precede the Construction of the Work, which depends thereon, whilst the Execution and the Effect reciprocally depend on the perfect Organization of the Body.

THE Sensations I am speaking of, whether we call them innate Ideas, in the Stile of the *Platonists*, or Ideas acquired by Education, according to the Phrase of the Partisans of *Locke*, (for it is only a Dispute about Words) are not less sensible and natural in all rightly organized Men, from the Moment they become capable of reflecting on their natural Bent. All the Arguments made use of by *Locke*, in his first Book on the *Human Understanding*, are levelled only at a Phantom, which *Plato* probably never dreamed of, as it is diametrically opposite to his System of the Pre-existence of human Souls. A philosopher that built on that Foundation, and perhaps on the *Pythagorean Metempyschosis*, was not out in asserting, that the Knowledge which Souls seem to acquire in their mortal Bodies

Bodies, was nothing else but a Reminiscence of the Knowledge of former Things which they must needs have previously acquired. Mr. *Locke* ought to have proved that *Plato* maintained, that originally, and from the Moment of their beginning to exist, all human Souls were endowed with those Ideas, which we call *innate*, only with respect to the Application and reiterated Junction which the Author of Nature makes of Souls to Bodies by material Generation.

Possibly he might have argued more consequentially, had he attacked the Pre-existence of Souls and the Metempsychosis, or else the Contradictions of certain Schools, where they connect the innate Ideas with the Doctrine of *Aristotle*: It was on these Heads he might have displayed the Strength of his superior Genius, which has made so brilliant a Figure in *England*, where some have imagined that his Way of Thinking and his Principles, which have a direct Tendency to Materialism, would serve to overturn and destroy all the spiritual Ideas the World has entertained in all Ages. However, Mr. *Locke* sufficiently discovered that this was not his Intention, though the Effect did not ill tally with it; and he

openly, and perhaps very sincerely, protested against all the pernicious Consequences that have been arbitrarily deduced from his Principles. His admired *Essay on the human Understanding* is indisputably the weakest of all his Works; its Credit is much declined among the Learned, and seems only to be kept up by the great Reputation Mr. *Locke* acquired by his other very judicious Works, with which he has honoured and enriched our Age.

THE Pre-existence of Souls, and the Metempsychosis, are Systems that have always found Entertainment among Mankind, and will perpetually haunt us, in spite of all Endeavours to disperse them, unless a superior Authority and a celestial Light blot out the very Ideas and Remembrance of them. St. *Augustin*, though a good Christian and a good Philosopher, does not seem to have acknowledged that Authority nor that commanding Light in regard to such Questions.

HE durst not take upon him to decide in these Matters; and every sober Man will always acknowledge, that such Questions are out of the Sphere of human Action; and that whether we admit or reject them, it is but
beating

beating the Air. Thus much is evident, that neither of them are necessary towards establishing Piety, Justice and Temperance, the only Virtues that can make us happy. Those Men who contend for nothing but Licentiousness, speed no better with the Pre-existence of Souls and their Metempsychosis, than with the System generally adopted by Schoolmen: And accordingly, of late years, they have fallen into *Pneumacy*, and with the utmost Obstinacy have intrenched themselves behind the desperate System of *Automacy* and pure *Machinism*.

M. *de la Mettrie* has given full Swing to his Imagination, in the two Books of which he is unfortunately the Author, in order totally to machinalize the human Mind, on the Traces of the famous *Des Cartes*, who quite materialized the sensitive Faculties or Souls of Beasts. His *Man a Machine* contains Absurdities and Paralogisms, which he himself would not disown; for notwithstanding all his Prejudices, he does not want Sense nor Sincerity. His *Reflections on Seneca's happy Life*, are nothing but the Consequences of his first Book, which at *Paris* was ordered to be burnt, as well as certain Works of the same Kind that have appeared of late Years.

FREEDOM of Thinking, and propagating the most extraordinary Opinions and Notions, in order to attack Mankind in the most sensible and honourable Parts, must needs rouze up the Faculties of all those who are not so cowardly as to suffer themselves to be reduced to a Level with Brutes, and deprived of the joyful Hope of a happy Eternity. A Man must be a Traitor, to remain an indifferent Spectator of Attempts which shake the sacred Basis of Thrones, dry up the *Source*, destroy the *Strength*, and materialize the *Spirit* of Laws ; and which, if they could once prevail in the World, would suddenly unhinge and overthrow human Society.



C H A P. II.

TH E R E needs no great Efforts to demolish the System of M. *de la Mettrie*, which belongs to him by no better Right and Title than his Boldness to publish it, and by the Ornaments with which he has endeavoured to fill up its Emptiness and cover its Weakness : Its horrid Aspect, discoverable at the first View, is alone sufficient to startle the most in-

indifferent Reader. Who can, without shuddering, conclude with that Author, that a *Nero*, a *Caligula*, a *Domitian*, a *Commodus*, are neither better nor worse than a *Titus*, a *Trajan*, a *Marcus Aurelius*; since each of them was no more than a Machine put together expressly to do what he did, without being able to do otherwise? The delightful Gardens of *Verfailles* are no more answerable for the Pleasure they give Mankind, than the Wheels and Gibbets in the *Place de Greve* at *Paris* for the Torments they inflict on Malefactors. The more the first Tyrants signalized themselves by their Cruelties and detestable Dissoluteness, so much the more worthy they are of general Applause, as having better answered the End and Design of their Mechanism. The greater Restraint the other Emperors laid on their particular Passions, and the more they devoted themselves to the publick Good, the less Freedom of Action they allowed their Machine, and therefore deserve the Contempt and Hatred of Men wound up to the Tone of *M. de la Mettrie*. Is not this sufficient to shew how abominable his System is?

Is it not mocking Mankind, to mix with all these vile Drugs a Dose of social Virtue, in

order to make the deadly Poison go down ? Without growing grey in Philosophy, a Man may easily conceive, that if all the particular Machines are mounted and set relatively to each other, in order to form a complete Whole, that is to say, a general Machine, of which every Individual is but a Member and a Part ; this must needs totally overthrow the whole System. Each Part ought necessarily to have a Connection with the contiguous ones, as well as an essential Relation with all the Parts, and with the universal Form, which sets every one in its Place, and puts the main Spring in Action, from whence Motion and Direction are incessantly and reciprocally communicated. And then each Machine is no longer set in Motion for itself, but for all the rest put together, which compose the total Form, and which immediately manifest a Design and a superior Law, to which the whole Machine is to correspond and obey, in order to preserve itself, and produce its Effect, by an admirable Harmony. Without this it would destroy itself ; and each Part that did not exactly correspond therewith, would disturb and stop the Motion that inclines all the Parts to perform their Function and Ministry ; and thus it would prove defective

fective in regard to Individuals and to the Whole.

THE more perfect the Invention of the Machine is, the fewer useless Parts it ought to contain, and not one useless Part without such a Necessity and such an Activity as may at the same Time render it sufficient to itself and to the Whole. But this Sufficiency is to be taken only in common, and understood of the Reaction of all the Parts, even the remotest Members; none being singly sufficient for itself, but only by the Concurrence and the Influence of the others, as we so plainly see it in the human Body and in Society.

THEREFORE we cannot sufficiently wonder, that a modern Physician, who cannot reason about the human Body on any other Principles than these, should be ignorant of them, or depart from them all on a sudden, even whilst he will acknowledge nothing else but Body in Man. Perhaps M. *de la Mettrie* was not insensible, that in acknowledging an Idea, a Design, and a general Law for the whole Machine, it would impose on all the Parts it consists of, and to each of them in particular, an Office and an indispensable Duty,

the

the Neglect of which would be imputed as a Crime. It behoved him to beware of ever supposing, that any Part might sometimes act in a manner repugnant to the general Object of the whole Machine, and employ all the Force and Activity it receives therefrom, towards overturning the Order whereby it subsists, and destroying itself along with the Whole.

NEITHER could he be ignorant, that this general Law, no more than the Design and the admirable Projection of the vast Machine of the Universe, cannot be the Machine itself, which always remains such as it is: That, without falling into a Contradiction, we could not help acknowledging it to be anterior and of a Nature quite different from the corporal and machinal one, which constantly obeys: That this Law, by a necessary Superiority, has no less Influence over the whole Machine than in the Government of each of the smallest Parts it consists of. All this is fully demonstrated by every Machine in the World; and we must even renounce all mathematical and physical Principles, before we can imagine one universal Machine composed of an infinite Number, all equally free, independent

pendent and detached. But if we attribute to them any Harmony, any Connection, we must of Course allow them to be dependent, and under a general Law, which imposes a Duty on them that cannot be neglected without Guilt and inevitable Damage to themselves. In fine, could that ingenious Author be ignorant, that if the whole universal Machine is nothing else but the bare Assemblage of all the particular ones, there can be no anterior Design in it, nor any Law imposed on the Parts, to assemble and place them, and keep them in their respective Positions, and make them act in Concert?

A System so extraordinary, and so hard to be maintained, as that of M. *de la Mettrie*, sufficiently destroys itself, without our taking the Trouble to combat and overthrow it. It would be an Affront to Mankind, to suppose them capable of adopting it in any Shape. But if by Chance any one should dare to take up with it, it would only furnish us with a new Argument to demolish it: For, would not so manifest an Opposition to common Sense, and to the Testimony of the most illustrious and renowned Philosophers and Literati in all Ages and Nations, plainly demonstrate, that

that Man therefore is not a meer Machine in regard to his Understanding, as he is with respect to his Body?



C H A P. III.

EVERY one allows the Uniformity of the Structure of the human Body, in all Individuals that are not monstrous: This is the Basis of Physic, agreeably to the sensible Testimony of Surgery and Anatomy. And accordingly, every Person of common Sense perceives the Equality of the organisical Motions, Sensations and Operations of the Body, as well in the whole Mass of Mankind as in the Individuals. Herein is Mechanism visibly displayed. But, at the same Time, how shall we reconcile this Uniformity of the Body's internal and external Structure, and this sensible Mechanism, with the infinite Variety which we see in every Thing appertaining to human Reason, and which we cannot observe among the Brutes that enjoy their natural Liberty in the Fields and Woods? All is fixed and invariable among such Beasts as are not cramp't or confined by Men: Every thing is equal

equal and uniform in each Species; no different Tastes, no Choice, no particular Regards in their Wants and in all that Nature requires from them: They all walk, run, leap, and express themselves in the same Manner; they have always the same Food and the same Drink; they take no Thought about guarding against Dangers, or preventing the Damage that may happen to them; no Conveniences, no Laws, no natural Dependence are seen among them. This is such a Mechanism as is not to be paralleled among Men, no, not even among the most barbarous of the human Race.

NOTHING is more frequent than to see the animal Man and the spiritual Man, the vicious and the virtuous Man, so strongly characterized, that one cannot long mistake them: And, which is still more extraordinary, and absolutely incompatible with Mechanism, we often see the same Individual running from one Extreme into another, and appearing a Contrast to himself. Why does not the Machine of the human Body change its Figure, as the human Mind changes its way of Reasoning, its Inclinations, and its Form? How is it that a living Man cannot long abstain from Food without

without dying? Why is it sometimes almost impossible for him to forbear laughing, weeping, sweating, and many other natural Actions consequent of the Mechanism of the human Body? On the contrary, nothing is more frequent than to hear a Man reason amiss, to see him perpetually changing his Tastes and Inclinations, and most tenacious of those that appear the most unnatural. Is it so great a Rarity to see the same Man become reasonable and unreasonable, learned or ignorant, pusillanimous or magnanimous, wise or foolish, modest or impudent, gentle or brutish? Could a Candle give Light in the Night, and spread Darknes in the Day-time? Or could one sail in a Windmill to the *Indies*?

To take Shelter under Delirium, and Madness, which some have endeavoured to account for on mechanical Principles, would be but a very silly way of cavilling about this Point. All Men agree that these are Distempers, occasioned by a real Disorder in the Organs; which does not in the least make for the Purpose of those pretended Free-thinkers, who labour under the same mad Fits when they pretend to reason as justly as if in perfect Health. Let us then agree with them, that their

their System of the *human Machine* is a real Disorder of the Mind and of the Brain, which must be treated and cured as a Delirium or Madness.

YET the principal Article still subsists ; since there is nothing more evident, than that any Disorder in the Machine very frequently interrupts or destroys the Object and the Actions that are proper for it, and consequently does not then answer the immaterial Design of him who invented and constructed it. A Man that reasons wrong too plainly discovers that he is beside himself, and that if we would reason well, we must do quite the contrary : It is almost impossible but that he himself will sometimes confess it, when he finds himself borne down by the Verdict of all his Acquaintance ; and hence it is that we see certain wretched Reasoners always endeavour to herd with none but their Equals, that they may never be forced to acknowledge the Disorder in their Brain.

To such Men the Bulk of human Society is an intolerable Burthen : An Assembly of Persons who reason on Principle, and form just Conclusions, is to them like a Field covered with

with Thorns and Thistles: They never can get clear of it without leaving behind some Pieces of their tattered Garments, or dissembling most of their real Sentiments, lest they should set all the Company, and human Nature itself, against them. For, could there be any among such Men, who sincerely perceiving the Charms of a Virtue that is troublesome to them, would be damped by the Horrors of a Vice that flatters their Passions? They lie most egregiously when they assert the contrary. The Authors of the *Fable of the Bees*, of *Manners*, and of *Seneca's perfect Happiness*, alone say more than enough to prove my Proposition: Nevertheless, I will not decline entering into the following brief Discussion.



C H A P IV.

*Q*UOD *tibi non vis alteri ne feceris, & quod tibi vis alteri feceris*, is the grand Principle on which all civil Societies, all the Laws, Justice, Equity, and Jurisprudence are founded. We likewise acknowledge a supreme Authority giving us this Rule, *All Things what-*

whatsoever ye would that Men should do to you, do ye even so to them. No Man was ever yet bold enough to deny this general Principle: The most detestable Writers in all Ages have acquiesced in it, and do still allow it to be the sole Foundation, the indissoluble Band of Society. The famous Mr. Bayle, in his *Comet*, lays down this single Principle as an undeniable one, . and as good as an Axiom, which in Effect it is. But then he applies it in the most extraordinary Manner that could have been imagined, pretending to prove, that Atheists might form a perfect Society. Herein he is blindly followed by all the pretended Free-thinkers, who lay the greatest Stress upon it, in order to impugn the Necessity of Revealed Religion, and to lessen our natural Abhorrence of irreligious People.

BUT what I find very difficult to conceive, is, that *Puffendorff*, *Cumberland*, *Gravina*, and others, who are reckoned first-rate Civilians, should have suffered themselves to be imposed on in this important Article, and not have endeavoured to clear it from the Obscurity in which it is involved. Being eager to shake off a certain Yoke, about which they puzzled

C and

and perplexed themselves without sufficient Cause, they laid sandy Foundations ; and hence it is that their Systems, though formed with admirable Art, and supported by good Arguments, are lame in the main, and bend like Reeds to every Wind. Thus young *Telemachus* sometimes thought *Mentor* was troublesome to him : Nay, he even wished to be rid of his Company, though at last he was indebted to him for his happy Deliverance from the Slavery of the insidious *Calypso*.

COULD any thing be imagined more weak and tottering than the Law of Nations, which those Gentlemen have explained, and which they give out, as grounded on the Consent of civilized Nations ? Good God ! Where and when did this Consent take Place ? What Writer has made any Mention of it in antient History ? By what Means did it obtain in subsequent Ages ? Why do they seem to include the Barbarians in it ; for even from these they deduce the most striking Examples, and the strongest and most evident Documents, in order to recommend and enforce it ? Neither has the ingenious Author of *The Spirit of Laws* dared to step out of this Carreer, though such a Law

a Law of Nations is incombinable with his pretended Dependence of the Laws on the Climate and the Nature of the Country. Yet Murder, Adultery, Theft, Fraud, Violence and Irreligion, are not the less proscribed in all Places, Climates and Countries, where there is a human Society.

ALL those grave Authors have been afraid to confess, that all Mankind, originally, formed but one Family, and descended from one Couple; for, say they, this is mentioned only in one single History, which lays Claim to a supreme and divine Authority. However, that History is the true and only Source, from whence, with the fullest Evidence, flows the Law of Nations, which every Man is obliged to acknowledge, and submit to it the Moment he is sensible that he lives in Society. Neither *Greek* nor *Barbarian* can dispense with it, nor call it in Question, without having Recourse to a Consent which never existed but in Imagination. But so essential a Fact being once laid down and acknowledged, we immediately conceive that other Consequences are deducible from it, which clash with that interior Licentiousness which the

Literati of the Age are very loth to for-sake.

AND accordingly we have seen of late Years the World over-run with wretched Books and Pamphlets, which, without the least Regard for the illustrious Names of those respectable Authors, vigorously attack them on their own Principles, and with so great an Appearance of Reason, that abundance of Ideots have suffered themselves to be seduced, because they acknowledge no other Authority but the human Mind, which is ever liable to go astray. On the same Principle we see the Policy of Cabinets boldly taking the *Machiavelian* Turn, and never scrupling to violate and subvert the most formal Precepts of all those Oracles of Jurisprudence. It is said, that the Oracle at *Delphos* never gave any Answers but what were susceptible of ambiguous, and oftentimes contradictory, Senses, in order to preserve the Credit of *Apollo*. May not this be the Case at present with the *Puffendorffs*, *Cumberlands*, *Gravinas* and *Montesquious*? At least it is evident, that in many Instances they did not reason logically, or were hindered by certain Considerations from doing

doing it, as any Man of Penetration may easily discern, if he peruses their Works with a critical Eye.

IT seems impossible that the Observations in the following Chapter should not have occurred to the above-mentioned learned and judicious Authors: But as such Observations would have led them directly to the Necessity of Revelation, the Consequences of which they dreaded, they durst not dive farther into the Matter, in order to investigate the true Basis of Society, nor disperse at the same time all the Clouds and Mists that intercepted the Sight of the eternal Sun of Righteousness.



C H A P. V.

THE Axiom mentioned in the last Chapter, *Quod tibi non vis alteri ne feceris, & quod tibi vis alteri feceris*, well deserves the following Considerations.

BY this Axiom every Man is taught to deal by others as he would be dealt with; since it is by what himself wills or wills not, that he must judge of what will please or displease

others, in order to deal with them accordingly. Nothing is more positive; *quod tibi vis*; or else, *quod tibi non vis*. Self-Love ought to be fully satisfied with such an Axiom. However, nothing is more equitable than this Axiom; but, at the same Time, nothing is more dangerous, if left without a Tutor in the Hands of every Individual, to be used at Discretion: It must be regulated, otherwise nothing can be more pernicious to human Society.

THE great Variety and even Contradiction in the Laws of the several Nations in the World, and especially of the Countries least known, which M. *de Montesquieu* speaks of, almost secure from the Objections that might be made to him about the Laws of the *Greeks* and *Romans*, and their Successors, sufficiently proves, that what pleases some must frequently be disagreeable to others; and that it would be a great Abuse of the Axiom in Society, to follow it crudely, just as it is propounded. Indeed, all that he advances on this Head is very uncertain; but supposing only half of it to be true, it would be more than is wanted to prove, that what suits some, would not be relished

relished by others, nay, might perhaps be very shocking to them.

LET us descend to Particulars, in order to set this important Truth in a stronger Light. Not to mention Children, who delight in Dolls and such Trifles as are nauseous to grown Men, it is evident that every Man, whilst in his Youth, would greatly wrong others of riper Years, if he treated them in the same Way that is pleasing to himself. A serious Man of Busines would be excessively tired with a continual Round of Pleasures and Diversions, which he could not taste ; this would destroy his Health, and, after ruining his Affairs, would make Life a Burthen to him. In like Manner this Man of Busines would be much mistaken in pretending, that young Men should frame their Conduct according to his Pleasure and Directions : In vain would he urge the Axiom, *Quod tibi vis alteri feceris* ; I like (might he say) to live in this Manner, and that is a sufficient Warrant for me to pretend that all others should do the same. They would laugh at him and his Axiom, and very justly too.

Don't object to me, that this Diversity regards only the Profession or Way of Life, and has nothing to do with Manners, Virtues and Vices; for, in spight of all cavilling Distinctions, it is almost the same Thing. A Man that does not love his Wife, and longs for another Man's, would be very glad of an Exchange, though it would be a double Adultery: And that other Man, who loves his Wife, tho' perhaps insufficient for her, would abhor such a Proposal. How then shall we make those two Members of Society agree? Each of them pleads the Right derived from the Axiom in question. We have abundance of Instances of Men drove to Extremities by adverse Fortune, and blinded by Rage and Despair, who finding Life a Burthen, get rid of it according to the Mode of *England*. But if they contributed to the Death of other Men, would their Will and Pleasure be a good Plea for it? Is there any thing more common than to find Persons, who greatly delight in Detraction, and freely consent that the same Liberties be taken with themselves? Are they thereby justified? By no Means. And yet, don't all such People as I have been mentioning,

ing, do to others what they like should be done to themselves?

LET us follow M. *de Montesquieu* a little farther. His easy, lively and natural Stile, like a Torrent of Milk mixed with excellent Champaign, carries me away, even when I cannot be of his Opinion. The grand Principle, says he, that acts in *Republics*, is *Virtue*; under *Monarchy*, 'tis the *Point of Honour*; and that of *Despotism* is *Force*: Nay, he thinks Virtue almost incompatible with Monarchy, and Honour not less so with Despotism. This is very ingenious, though there is little or no Solidity in it. But allowing it for a Moment to that admirable Author, the Axiom in question would greatly perplex Mankind under those three different Forms of Government. The Royalists would think themselves authorized to require the Republicans to deal with them by the Rules of Honour; and the latter would not fail to answer, that their Point of Honour is a meer Phantom, which in vain they endeavour to realize; that there is nothing solid but Virtue. Despotism would laugh at both. Where then would be the Use of the Axiom; and how would any one

one dare to maintain, that, *quod tibi vis alteri feceris*, is the Foundation and the Band of Society? Would it not rather be the reverse? All the Faults charged to the Account of Self-Love, among Mankind, and which are looked upon as the Source of all the Misfortunes and Evils in the World, would they not rather fit the Axiom above-mentioned, were it taken quite crude, *prout verba sonant*? Yet nothing is more true, nothing more solid and evident than this Axiom, provided it be regulated and justly limited, But whose Province shall it be to make the Rules and set the Limits?



C H A P. VI.

BY what Law should a Man be obliged to do that to others which he would have them do to himself? Who has imposed such a Law? Who upholds it, and who is it that avenges the Violation of it? I don't suppose it will be said, that this Law was imposed by the Concurrence and Combination of all the Parts; for then it would immediately be asked, By what

Hand

Hand are all the Parts impelled and disposed to concur and combine together, in that singular Manner which constitutes the Whole? Let the Disposition be made in any other Manner, and then it will not be the same Machine; the Action and the Object can no longer subsist. There is no Mathematician, nor sober Head, but will be forced to confess, that it is the Design, the Idea of the Machinist, which imposes an absolute Law on his Work, and on all the Parts of it; provided he has a due Regard to the Matter he chuses for the Construction. It would be a great Oversight to make the Wheels of a Clock of Wax or Chalk; they must be of Metal, or at least very hard Wood. In vain Men seek the perpetual Motion: It cannot subsist, for want of Materials that will not wear out and perish at last.

ANY Man that did not go upon such a Principle, in constructing a Machine, or reasoning about it, would be sent to *Bedlam*; though they calmly listen to those who depart from it in speaking of the Universe and human Society. The Author of Men, when he intended to make them, could alone impose the Duty,

Duty, that every one should treat others as he would be treated himself; for this was suitable and necessary to Mankind, in order to form Society, on which their Well-being chiefly depends. 'Tis by this that the Spring communicates to all the different Parts the Motion and the necessary Restraint for the Action of the whole Machine. Each Part, in receiving the Impulse, must also communicate it, and overcome the Degree of Resistance natural to Bodies: And this is manifested by the Friction of the Parts, which thereby reciprocally wear out one another, and weaken themselves by Degrees; so that becoming quite useless, they must be replaced by others, or else melted down and cast afresh, in order to keep the Machine together.

WHY then, you'll say, should there be such a Friction, whose Consequences are so destructive? Why was not something else made Choice of, not liable to that Friction? It is because there never was, nor never will be, such a Thing in Nature, as corporeal Matter without Motion or Friction; for as to spiritual Machines, they are only made in the Imagination, and by supposing Bodies to form them.

them. Motion cannot be communicated but by Contact ; and this Contact is made by the Adhesion of the Superficies of the two adjoining Bodies, which not remaining quiescent, but proceeding directly to Motion, some happen to be carried away or overcome by others : Wherefore, Friction wears out and consumes alike the Strong and the Weak, more or less, according to the Resistance or Velocity.

BUT you'll perhaps say, Why should a Body have Particles that may be taken from it by Friction ? I answer, Were it not for this, nothing could ever have been made of it. Without this Divisibility, could Wheels, Bolts, Barrels, Screws, and such like Instruments, be made ? Every Thing that is formed, is made only through this pretended Defect in corporeal Matter. And is it not better that a Body should wear out and consume, provided something be made of it, than to make nothing at all of it, and that it should never wear nor decay ?

THIS ought to make us thoroughly sensible of the indispensable Necessity of doing to others what we like they should do to us, in order to communicate reciprocally the Motion and

and the Restraint requisite for the Subsistence of human Society, whatever it may in Appearance cost the Parts; since it is hereby that they receive as much as they give, and cannot otherwise have any Activity. What End would it answer, to have motionless and immutable Beings? It must be confessed, that it is better to have Pain and Pleasure successively, than to be, like Marble Blocks, never susceptible of either.

You would have the Motion communicated without Friction, and so you fall into a Contradiction: It is a wild Imagination, and a Wish equally impossible and unreasonable. A Body that should rob all the others of their Particles, without losing any of its own, is an Absurdity that deserves no Notice. Would not such a Wish be repugnant to the very Nature of Bodies? Every Thing that is a Body, must have the same Corporeity and the same Nature; for, What would that Body be which wanted it? The Extravagance of such a Chimera is evident to every Child, and cannot even escape the Penetration of an old Dotard. You need only propose to him, to be himself the weak Body that always decays, while the other

other remains ever immutable: He will pose you at once by only asking you, to what Purpose?



C H A P. VII.

MANY other Considerations might be offered, to prove that this Equality is necessary and indispensable; but as I am speaking here to none but sensible Persons, I doubt not but they readily perceive all the rest: However, I cannot forbear making a very essential Remark; and that is, that the same Particles which decay and perish, by the Contact and Friction indispensable in Bodies, might indeed be restored gradually as they are lost and vanish, if the Bodies reciprocally returned them at the same Time that they take them from each other: In such a Case the Machine would still subsist in a perfect Totality: And this, doubtless, is what should happen in human Society, by the perfect Performance of the Duty of dealing by others as we would have them deal with us. But, to this End, Nature should be every where equally perfect; the magnetic Force

Force must be equally distributed and animated; and that there be not the least corrupt Part, whose Poison is communicable, and its Corruption contagious: No Part must fail in Point of Contact, nor redouble its Shock out of Time and Measure.

THIS is what can never happen but by long Experience, and the Hazard of all Sorts of Dangers, fit to instruct Individuals endowed with Discernment, and whose Fund of natural Activity is capable of a proper Recruit or Renovation. In vain may we preach to Men and convince them by the strongest Reasons; nothing but formal Experience, aided by Reflection, can teach us to like to be treated rationally, as we ought to be, and not capriciously; and then to treat others on the same Footing. But to learn every thing by Experience, is hazarding too much, as we very well perceive by the Misfortunes we bring upon ourselves whenever we attempt to shake off the Yoke of preceptive Law. 'Tis neither through Fraud nor by Chance that the World has submitted to that Yoke in all Ages, and does still very willingly submit to it: It is because Mankind easily apprehend, that in order

order to enjoy the Pleasures which human Nature is susceptible of, and to avoid the greatest Sorrows and Evils as much as possible, there must be such a Law as either prevents or corrects pernicious Experiments.

WHATEVER Talents a new Machinist may have, he will always run infinite Risques, and find it very hard to extricate himself out of a thousand Difficulties occurring in the Construction of his Machine, if he has not Recourse to the Laws of Mechanics, which are derived to him by Tradition. Though his Predecessors may have learned and propounded them only by the different Experiments they were forced to make, all those that come after them cannot do without those Laws, either to shorten the Work, or to avoid the great Number of Casualties they would otherwise be liable to. Therefore every Man of Sense must needs be very glad that Rules are proposed, and Laws imposed on him, to sift the Multitude of Desires arising in his Heart, and to help him to accomplish such Wishes as are most suitable and proportionate to his Condition.

BUT, you'll perhaps ask me, Why has not every Man that Rule and that Law within himself? And must he lay a Restraint on himself in such Wishes as his very Nature produces? Let us beware of attributing to Nature all the Wishes and Desires of Men: It would be a great Mistake to attribute to Nature such Wishes as are made by sick and frenetic People. We must carefully distinguish between what Nature calls for in Health, and the Wishes produced by Sickness. The Wishes of a Man at Liberty are very different from those of a Slave languishing in Fetters; and it would very ill become him that is blinded by any violent Passion, to plead that Nature requires to be gratified. Perhaps it would be a hard Task to discern Nature in a mortal Disease, a cruel Slavery, or a violent Passion that clouds our Intellects. If the State of sick Persons, Slaves, and Men overcome by Passion, is not well characterized and distinguished, they run a great Risque of being destroyed in endeavouring to cure or release themselves, or compose their Minds.

ALL Jurisprudence, all Morality, and all Policy, that did not set out upon this principal

pal Distinction, never produced any thing that was good ; and *Aristotle* himself, for want of it, gave all his Precepts in vain. *Plato* succeeded better ; for he acknowledged a Kind of original Fault, which has disordered the Mind of Man. But that is not all ; a great deal more was wanted, and this the Gospel only could supply. I doubt not but that the bare mention of the Gospel will make most of our pretended Free-thinkers turn up their Nose at this little Treatise, and immediately resolve to spare themselves the Trouble of perusing it. This is a deadly Prejudice, which strengthens my Thesis with a new Argument.

A MAN languishing in a Fever, and parched with Thirst, will not fail to complain of the Wrong done him if he be denied cold Water : He'll tell you, that the Bitterness of the Medicine and the Pain of Bleeding are contrary to Nature ; which is true in one Sense, for Nature in Health does not require them : 'Tis Sickness, and not Nature, that wants Physick and Bleeding : But the greatest misfortune of the Patient is his want of sufficient Discernment to know the Condition he is in,

and the Remedies that are fit for him: If he be left to his own Reason and Discretion, he is utterly lost. Even Physicians, when sick, are not left to themselves alone to cure their own Diseases: They, as well as other Patients, must be treated by healthy Persons and skilful Physicians, who should not leave them till the Distemper is mastered; and this is very hard to be done, especially in contagious Diseases. May not this Example explain the Abuse so often made of the Axiom in question, as we have already observed? Now, if Mankind in general be corrupt, and subject to every Kind of Illusion and Error, how can they be depended upon for regulating Knowledge and Desires, which are so vastly diversified among Individuals?



C H A P. VIII.

A VERY little Reflection on what happens to the human Body, by Madness and hereditary Distempers, and the ill Habits derived from these, will make us easily apprehend how Men fell into the greatest Barbarism,

barism, for want of Society, from which they might have been separated by War, Inundations, and many other Accidents. To explain the Difference in the Complexion, Colour, Inclinations, and Customs of different Nations, as we do in the Trees and Animals of different Climates, it is not necessary to have Recourse to a Comet's brushing by our Globe. Were not the most civilized Nations in our Days formerly Barbarians? and don't the Barbarians of our Time live in the Climates of Nations formerly polished and admirable Cultivators of Arts and Sciences? I don't wonder that the *Moors* think their Women handsome, nor that the People of *Malabar* admire clumsy Legs; neither am I surprized that so many other Nations find Elegancy in their queer, whimsical Dress: By Degrees the *Europeans* likewise accustom themselves thereto, and at last take a Liking to them. Formerly the *French* could not endure *Italian* Musick, and held all our Theatrical Entertainments in great Contempt; but by slow Degrees they have begun to relish it, as the *English*, *Germans* and *Spaniards* have likewise done, though very few of them understand *Italian*. We ourselves, who formerly

thought the Musick of the Orientals intolerable, have lately mixed some of it with our own, and also borrowed something from other *European* Nations. The Novelty of it startled us at first, but we took a Liking to it as soon as it was modelled and proposed to us by the best Masters of Musick. The same may be said of other Things.

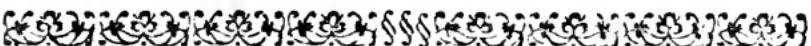
THE Extremes of Heat and Cold in the different Zones may indeed have an Influence over Fashions, as in Drefs, Eating, and Bedding, either to restrain or excite Sensuality: But in whatever Climate a human Society be found, it cannot subsist without proscribing Irreligion, Murder, Theft, Fraud and Violence. Human Nature being every where the same, arms itself against every thing that dissolves and destroys Society. The Remedies, if you please, may be rougher or gentler among some than amongst others, in Proportion to the physical Resistance of Bodies and the Culture of Minds; but cultivate the one, and barbarize the other, and you'll immediately find that Equality which is looked for, not for want of seeing it, but because Men will not see it.

I HOPE *M. de Montesquieu* will pardon me, if I cannot follow him through all the physical Arguments whereby he endeavours to prove, that the Difference of Climates must needs have an Influence on the Laws of different Countries, and metamorphose the Minds of the People, just as the antient Poets did every Thing: Nymphs in fresh Waters, and Fawns or Satyrs in the Woods; Tritons, Nereides or Sirens in the Sea. For my Part, I very well know, that a *Spaniard* Minister resides many Years at *Stockholm* or *Petersburgh*, and returns home as much a *Spaniard* as when he set out: Another goes from *Stockholm* or *Petersburgh* to *Madrid*, and stays there thirty Years, without losing his Northern Manners or Inclinations. On this I shall always infist. The Worship of a Deity, Chastity in Marriage, and Security in Life, Fortune and Honour, will be found even in the remotest Corners of the Earth: The grand Principle of treating our Neighbour as we would be treated by him, is discernible in all Places, however wrong it may be applied. Wheresoever there are Men, there must be Illusions and Extravagancies, which commonly

grow more enormous as they encrease in Number: But give them Leisure and Means to look into themselves, and many of them will be cured. Were it possible to restore Health to all the Patients in Madhouses, you would almost instantly so far reconcile their Wants and their Wishes, that they would all have one Heart and one Mind; I mean in regard to the Necessaries of Life, which are the same for all Men.

BUT how will you persuade an infinite Number of Madmen, who, notwithstanding their Frenzy, are very sensible of their Equality, and can but very seldom acquiesce in the Opinion of their Fellow-Creatures, even though it does not appear that they aim at imposing upon them? As they don't lose the Faculty of Reasoning, and as the Disorder in their Organs ever leads them astray, without their being sensible of it; so they always persuade themselves, though they cannot persuade others. Nothing is more common than to see them furiously obstinate, and never desisting, whatever it may cost them. You never would be able to make them acknowledge that Black is Black: They'll tell you it is bitter, or obtuse,
but

but not a Word relative to Colours. The Point of Honour is never carried to so high a Pitch as among those poor Wretches : Rather than bear Contradiction or take the Lie, they are ready to sacrifice themselves and all Mankind. Lenity is lost upon them ; they know not how to yield to any thing but Force ; and accordingly, Hunger, Chains, and Blows are the Means to make them quiet a little while : For as to a perfect Cure, nothing less than restoring, or, as I may say, new-casting the Organs, can effect it.



C H A P IX.

DON'T take it in Dudgeon, if I propose to you a similar Example, in order to go to the Source of the Contradictions observable in Mankind, which our modern Authors have endeavoured to encrease as much as possible, I had like to say more than is possible. It is not I that am deficient in the Respect and Tenderness due to human Nature : I should be very glad to spare it, and reclaim it from all its Errors : But those Errors are so loudly extolled

tolled in our Days, that there is scarce an Echo in the World but what incessantly returns the Sound. Let us then for a Moment listen to it, but without making an ill use of it. To what Purpose is it, say some People, that all Nations, even the most barbarous, detest Irreligion, Murder, Adultery, Theft, False-witness, Fraud, and many other heinous Crimes, if one cannot find two perfectly agreed about these Articles?

THE Worship which all the World acknowledges to be due to the Deity, is generally altogether exterior; but most Men would have it interior also: Those who would have no Worship at all, pretend it ought to be interior only. Others maintain it is by Virtue only that we honour the Gods; and the Bulk of the People set up their Rest in Ceremonies. But this is not all. Some abhor every Object of Worship but a spiritual one: Some acknowledge none but corporeal Objects; and others blend both together. In some Nations they detest a Plurality of Gods; in others they worship every thing that may serve as Emblems of the Deity; and great Numbers worship all their Life, without any clear Notions or solid

Prin-

Principles. The eternal Rewards and Punishments, which are propounded and established in every Religion, never could work upon the wretched Sadducees, nor can they persuade the Innovators of our Age. In fine, the Author of *The Spirit of Laws*, Book xxiv. Chap. 14. has not hesitated to affirm, ‘ That Men who believe sure Rewards in another World, will escape the Legislator: They will despise Death too much. How can a Man be bridled by Laws, who firmly believes that the greatest Punishment the Magistrate can inflict on him, will be over in a Moment, and then his eternal Happiness begins?’ Was the Lie ever given so formally to all the Legislators of Mankind, not one excepted? Nobody ever knew of any other Means to fix the Observance of the Laws, but eternal Rewards and Punishments. A Man must be very dull not to retort the weak Argument thus; *How can a Man be restrained by Laws, who thinks himself sure of escaping and eluding the Punishments which the Magistrates might inflict on him?* Men may not only easily persuade themselves of it, but the Majority would stick at nothing to succeed in it, and combine together to elude the Penalties

Penalties of their Crimes, were they not generally restrained by the Fear of everlasting Misery, and the Hope of Pardon and eternal Bliss. This is not a proper Time nor Place to say more: Be it sufficient to acknowledge here, that human Reason, left to itself, perpetually falls into the greatest Extravagancies and Contradictions in regard to this Article. Let us pass more lightly over the rest.

MURDER, though generally reprobated and punished, does nevertheless meet with Applause and Honour in War, Gladiatorship, and Duels; and in abundance of Cases has a thousand Excuses to offer, whereby it escapes the just Punishment due to it.

THEFT has its Partisans likewise, even among Legislators. War, Policy and Necessity seem to justify it on several Occasions: And it must indeed be confessed, that he who takes most, and from the greatest Number, is least punished for it; and to have Effronterie and Resolution enough to rob the whole Community, may sometimes procure him Admiration and Applause.

NOTHING

NOTHING is more difficult than to fix People's Notions of Adultery, which all the World abhors and punishes. Some Nations would acknowledge none at all, neither in Women nor Men. Others looked upon as Adulteresses only such Women as quite forsook their Husbands and Children, to live with other Men. Some maintained that all carnal Conversation of the Wife, without the Husband's Permission, was downright Adultery ; whilst others fixed Times and Circumstances, when every Kind of Dissoluteness was allowed, and even looked upon as a religious Act among Idolaters. In fine, to lend one's Wife to another Man, was not contrary to the *Castorian Law* : Whilst others censured as Adultery, not only every lewd Act, but even impure Thoughts and lusting after married Women. On this Head the Husbands were very much spared, except by certain refined Moralists, who raised Scruples without End or Measure.

As to Fraud and Lies, which are generally condemned every where, if we descend to Particulars, in regard to Persons, Intentions and

and Consequences, it will appear that they are very seldom censured. Inquire of Politicians, licentious Persons, and Rigorists, and you'll see to what a Pitch the Contradictions are carried. Let us wave the rest.

AFTER these Reflections, will any one dare to say, that Mankind's Sense is very sound, and that one may expect from them any considerable Help towards deciding all these Questions, and many more in which human Nature is not less interested? I should think myself the silliest of Mortals, if after this I did still seek the *Source of Laws* among Men. I don't say but it ought to be essentially among them, even as the Source of Health is: But human Weakness and Folly have so clouded and confounded it, that we can no longer discern nor lay hold of it, in order to proffer it to the disordered Race of *Adam*. This fertil Source must needs be amongst them, since all the human Species are agreed about the Crimes that ought to be proscribed: But the Avenues to it are so full of Briars and Stumbling-blocks, that it is absolutely impossible to penetrate very far, without setting Fire to them, and reducing the Whole to Ashes.

How-

HOWEVER, all Hope is not lost. He that gave the Law, upholds the same, and avenges the Breach of it: He is merciful enough to do the one, and has Strength sufficient for the other.



C H A P. X.

SAY not, that the Strength of human Reason is alone sufficient to clear that Road, and penetrate to the very Source of Laws, without a Guide and without Assistance: For this is contradicted by the Experience of all Ages, and by the most serious and strenuous Efforts of our Century, which has made no farther Progress therein, though guided by the most excellent Masters of the Art, such as *Cicero* and *Plutarch*. Not but that it has been long ago perceived, that there must be such a luminous and strong Source, to which it is no less useful than necessary to submit; but those who confined themselves to seeking it among Men, always lost themselves in a vast Labyrinth. They proposed nothing but the famous Axiom, to treat others as we would be

be treated by them : Which is very good in general, but equally dangerous and arbitrary with respect to Individuals, as I have observed above ; unless it be limited and circumscribed by such a superior Law as Men will be afraid to violate. Now, if this superior Law be requisite to regulate it, then the Axiom is no longer the Source, but is governed by that same Law, which bounds it on every Side ; otherwise, nothing would be more offensive to Society, and destructive of those good Morals on which its Happiness depends. Much less can it be said, that this superior Law flows from Society itself, since there never was in the World, nor ever can be, a general Assembly of Mankind ; and in the most numerous Assemblies there is always the least Harmony : Sex, Age, Climate, Customs, and the Interests of each Individual, are too opposite. To say that it springs from the Minority, or some particular Society, who by their superior Wisdom and Strength make others acquiesce and obey, is not less absurd, as nothing dazzling and violent is permanent : And on such Occasions every Man readily puts this Question to himself, As I am of the same Nature, why should I not have the same

Rights

Rights and Prerogatives as any other Man that wants to impose Laws on me?

WILL you say, That they are imposed on the Majority, by a Prospect of Benefits and Advantages, which extorts their Consent and Submission? But who would be bold enough to assert, that each Individual found his private Happiness and Advantage in all the Laws which a Legislator, or a Society, imposed on him? If this could be the Case, those Laws would never alter, nor could they fail of being punctually obeyed; whereas the contrary happens in all Societies. But if, to get over this Difficulty, you recur to the Learning of Civilians, you then immediately lose Sight of pure and simple human Nature, and propose a Vacuum, a Name without Reality, or else something superior to Men, which manifests to them the Analogy of Things, just as the Light of the Sun, though not within us, makes visible Objects manifest. That which makes Men see, can no more appertain to them, than that which makes them reason and reflect. It is true, that the Organisation of the Senses is within us, and the Action and Effect depend thereon, if you please, as

in the perfect Organisation of the Eye. But this is not all. The Eye will never see any thing, if Light do not act reflexively on it: There will be no other Difference between him who wants Eyes and another that wants Light, but that the former can never see, even though the Light strikes him, and the latter will see as soon as he opens his Eyes. A Man must be wilfully blind to deny this Truth, That, in order to reason well, we must be perfectly organized in the Brain, and in the principal Senses; but that, however perfectly organized he may be, Man will never reason, unless he be furnished with Principles adapted to the Subjects, besides a great Variety of particular Branches of Knowledge, and Strength sufficient to connect and separate them as Occasion requires. And yet all this would not avail much, if the Objects about which he argues, be not clearly and distinctly apprehended by the Understanding, much in the same Manner as Light paints Objects in the Retina of the Eye.

LET it be further observed, that what we call a learned Man, is he that has discoursed, read, and reflected most, and maturely examined

mined, what has been said by others; so that he can have no Knowledge now, but what comes by Tradition. They add, retrench, reform, propose new Systems, ever sketched by others, and put together according to the Taste, the Prejudices and Fashion of the Times; but, in the main, the Origin of all is in the Antients, and has no other Source than human Traditions. Now, in tracing them up to the Source, we must at once forsake Tradition, to make Way for an immediate Revelation, or a Series of particular Experiments, which fixed the Reflections of the first Inventors of Arts and Sciences. But how is it that Nature should invest those primitive Men with the Right or Privilege of Invention, and not continue it to their Successors? For, nothing is more evident, than that since those early Times, there are no new Arts nor Sciences in the World. I am not insensible, that many among the Moderns will boggle at granting me this Proposition; but it will pass muster with all Men that are not prejudiced in Favour of the Mariner's Compass and the Load-stone.

WHAT some Critics have advanced concerning Physic, as if it was the Fruit of an infinite Number of Experiments, made in a Series of several Ages, from which the famous *Hippocrates* deduced his Aphorisms, is very liable to Exceptions: The Proofs given of it are extremely equivocal. The *Greeks* of *Asia Minor* derived Physic from the *Eastern* and *Southern* Nations, as *Hippocrates* himself relates in his Works. He may very well pass for the Father of Physic among the *Grecians*, and even among the *Romans*, who adopted almost every Thing that gave any Lustre to *Greece*: But what is this, in Comparison to the Rest of the World? They may object to me, That we have no Fragments that speak favourably enough of the State of Physic among the *Chaldeans*, *Egyptians*, *Affyrians*, *Medes*, *Persians*, *Indians*, *Scythians*, and *Chinese*: But this Argument would prove nothing; for, was not the antient Physic of the *Europeans* also totally destroyed and buried by the Barbarians? It is happy for us that we have a few antient Books left, which escaped the Fury of the *Goths*, and *Monkish Ignorance* and *Superstition*.

IF the *Asiatics* and *Africans* have not transmitted to us their antient medical Authors, neither have they preserved and handed down any others: And so the Argument proves nothing. On the contrary, all the remaining Traces of Antiquity very clearly indicate, that Experience was the Basis, after which Reasoning always followed, and determined the Application. It is true, they reasoned on Principles not so mechanical as those of our Times: But we should find it a very hard Task to prove, that in our Days more Diseases are cured than in former Ages, if you set aside the Specifics of Quinquina, Ipecacuana, and Mercury, which did not triumph over their Antagonists till within these few Years past,

It would not be less difficult to persuade Men of Sense, that the Knowledge of all Vegetables and Minerals, as well as their Virtues and surprising Effects, must be originally ascribed to Experience alone. I am willing to dissemble what the *Gentiles* themselves relate of certain Virtues in Herbs revealed by the Gods, and what the *Jews* very justly aver

concerning *Solomon*: But I cannot forbear laughing at all those who send us to the Toads for the Art of Midwifry, make Storks the Inventors of Glysters, and find Examples of Phlebotomy in other Animals. They must have a very mean Opinion of the human Species, to make Beasts their Preceptors, rather than allow them a divine Instructor. I shall beware of adopting such Sentiments, not only for the Honour of Mankind, but because one ought to be convinced of their Fallacy. Supposing Men had learned something from Animals, it could happen no otherwise than by reasoning on what they saw them do; and this is precisely what some People deny to ancient Physic.

C H A P. XI.

THIS little Digression is not foreign to our Work. There is a particular Analogy between Physic and Law: Both imply a Weakness or Infirmity in Men, and at the same Time a Fund of Health, capable of recovering their pristine State. Were there no Disease and no Injustice among us, there would be

be no Physic nor Law. Of what Use is Physic to a Man who is always in perfect Health, and cannot be otherwise? And what does the Law signify to the Righteous, who cannot fall into Iniquity? For the Law not only always supposes a Crime, but teaches and occasions it by forbidding it, according to the old Proverb, *Nitimus in vetitum*. Nevertheless, we must beware of the Equivoque we are exposed to in speaking of the Law, which bears a double Sense with Men.

THE Idea which the Vulgar have of the Laws, is properly but as of a Will and supreme Power, declared either by an audible Voice, or written, to regulate the Actions of Men, their Rights and Dependencies: But this same Vulgar immediately raise their Thoughts to something above the Laws, when they inquire, whether they are just or unjust. This shews very plainly, that Justice is generally acknowledged as the supreme Law, and the Source of Laws: Though, in their Turn, the Laws derived from it sometimes make Things just, or lawful, which, under different Circumstances, were not so before. For Instance; it is just that every good Citi-

zen, during a Siege, should labour in Defence of the Town: But if such a Citizen be sick, or too old to work or fight, he is then excused from the Duty. This leads you on again to a Law superior to Justice itself, which is Equity; that is to say, such Justice as is proportionate to the particular Faculties and Conveniency of the Members that compose the Whole. Thus by Degrees we ascend to a certain general Law, which I shall endeavour to canvass, and may possibly demonstrate it to be the sole and true Source of Laws.

THE Law is also generally taken, among the Learned, for that natural Necessity which includes the Being and the Well-being of all Things that cannot exist nor subsist in a sufficient and perfect State, without possessing neither more nor less than what their proper Nature requires: Therefore it takes in all that it wants, without leaving any Vacuum to be filled up; for the Surplus would only serve to clog, embarrass, and disfigure it. For this Reason the Law of the Sight is called, the perfect Organization of the Eye, the Proportion and just Distribution of Light on the Objects, from whence it reflects on the Retina,

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by Means of the constant Purity of the transparent and diaphanous Fluids. An Excess or Deficiency in all this, is the Fault which Nature excludes from the Sight, though without previously declaring it, without giving any Idea of it, nor any Propensity to give Way to it, which is the Case in positive Laws. On the same Principle also, the Law of a right Line is called its proper Nature, which subsists perfectly of itself, independently of all curve Lines imaginable. The Law of the circular Line, as curved as it is, is not less original in its Nature, without any Relation with, or dependence on, the right Line. All Physico-Mathematicians must allow, that the perfect Nature of every physical Substance and every mathematical Figure, is its own invariable Law, too frequently unknown, and too often supposed, by the Learned. There can be no Reasoning, without either knowing it, or taking it upon Trust; nor any coherent, intelligible Discourse, without agreeing about this Knowledge.

THIS Law is therefore nothing but Nature, such as its first Author was pleased to imagine it within himself, and outwardly exhibit

hibit it in his Creatures, which we call Spirits and Bodies, of which this vast Universe is formed and animated. It is not yet Time for me to dwell on the Design of the supreme Author, and the interior Idea he formed of the Universe: I only observe here, that Nature, such as it came out of his Almighty Hand, in a State of Integrity, must have manifested the Source we are seeking, and that primordial Law from which all others might afterwards flow. But alas! this primitive Integrity quickly vanished: And indeed, one Instant is sufficient to damage or destroy the most perfect Sight, as soon as the least Impurity gets into the crystalline Humour of the Eye. Nothing more is perhaps required, to alter the Reflexion of Light, and the Form in which it brings Objects to the Retina; so that some shall be turned upside down, others appear double, and some but very faintly, whilst others can no longer reach it at all, as the Disorder increases a-pace, and total Blindness must be the certain Consequence. The more delicate the Workmanship of the Machine, the more liable it is to be put out of Order, and so much the more fatal must the least Disorder be: It is a necessary Consequence of

the

the Delicacy of the Parts ; and this Delicacy is indispensable in Machines of exquisite Workmanship, whose Action is to be extremely swift and light ; for there is always the less Resistance to be overcome, where the Parts are thin and flexible.

Now, after the Machine has suffered any important Disorder, it is in vain to apply to it, in order to learn the Law whereby it exists and ought to act. This is what has happened to human Nature, whose Report is no longer to be depended on : And accordingly we see, that all who trust to the Appearances it presents, incessantly go astray, fall into Contradictions, and commit the grossest Faults and most unpardonable Blunders, for want of having first explored the Ground, and inquired into Nature's present State of Integrity or Corruption. Of this we have but too much Information, as well within ourselves, as in all the Objects about us. We need but fix our Eyes a Moment on a Lunatic, and on a dead Carcase, and then put the Question to ourselves, Whether this is suitable to, and reconcileable with, what we have observed in every Man of common Sense, and in all the

Beauties

Beauties and Graces of the Fair Sex? Those Extremes, which are so glaring in Nature, must needs produce all those Laws, so repugnant to right Reason, which our modern Authors have collected with uncommon Industry, in order to disgrace human Nature, and debase it even below the Brute Creation: And hence it is that the Civilians of our Days are always at Variance among themselves, and must continue so, unless they come to an Agreement to introduce *Pyrrhonism*, and the dismal End to which it infallibly leads. What an admirable Machine is this, whose Action is continual Contradiction, and at last destroys itself! And yet, is not this Nature herself, such as she presents herself to our View?



C H A P. XII.

THIS Nature, notwithstanding she is so hoarse, has not yet quite lost her Voice; but it is too weak and broken to reach Ears distracted by the Noise and Nonsense of the World and of the modern Schools: A *Cumberland*,

berland, a *Gravina*, a *Hyacinthe*, a *Montef-
quiou*, and many others, cannot give due At-
tention to it. Nature, I say, still speaks, and
so distinctly, that we cannot mistake her
Meaning: For instance, in the two Sexes, in
all Ages, in all Climates, and in all Circum-
stances in which Men may be found, some-
thing fixed and invariable is always discernible,
which is the same at all Times, in all Places,
and in every Individual. 'Tis here that, with-
out minding such Things as are subject to
Change and Variation among Men, we can-
not mistake human Nature: Don't all the
Differences in Languages, Customs and Laws,
prove that Nature speaks; that it has a Know-
ledge of, and consents to, Honesty and Justice?
Don't we proceed in the same Manner, when
we inquire into the Laws of Sight and of all
the other Senses? We attend only to what is
common and invariable in all Eyes, without
minding all the Variations, Particularities and
Differences observable among them, or distin-
guishing every individual Eye according to the
Age, Climate, Season, and other Circum-
stances. This is of use to prove, that the
Eye is liable to be hurt by a thousand Casual-
ties, and is not in a State of invariable Per-
fection;

fection; so that abundance of Precautions must be taken, to guard against every thing that may do it an Injury, and to seize whatever may restore it to its pristine Condition, as often as it is out of Order.

THERE needs not much Study and Learning to be convinced of this palpable Truth: After what I have observed in the ninth Chapter, on the different Sentiments of Men concerning the principal Articles of Justice and Manners, I must gradually return to it, and make the following Considerations thereon.

I. A MAN overwhelm'd with Pain, and labouring under extreme Terrors, a Burthen to himself and to others, being weary of groaning and fearing, and having no Prospect of Ease and Help, wishes for Death: Be it granted. Perhaps he even wishes for his total Annihilation, of which he has no other Idea, than that it is a State of perfect Insensibility. But, on the contrary, a Man in good Health, in the Flower of his Age, in the full Enjoyment of every Pleasure he can wish for, always at Ease, and without the least room to apprehend any fatal Turn of Fortune; could

such

such a Man, I say, forbear wishing to live for ever here? In like manner, a Man who is satisfied with his own Conduct, who has few or no Faults to reproach himself with, but finds his Actions good, just and laudable, heartily wishes that there be a God, to the End that he may be beloved and eternally rewarded by him ; and that there be a Society to approve and admire him, and pay him the Honours which he thinks he has deserved. On the other hand, a villainous Miscreant, whose Conscience torments him like an implacable Executioner, expecting nothing but Infamy and the most cruel Death, I readily apprehend, that he wishes there were neither God, Society, nor Prince. But endeavour gradually to relieve the unhappy Man, correct the Villain tenderly ; restore the former to the Enjoyment of Health and Pleasures, bring the other into the Paths of Justice, and induce him to repair all the Mischief he has done, without hesitating about a general Pardon ; and then a Change in the Wishes of both will necessarily follow : The same will also happen to the happy Man and the righteous Man, the Moment they fall into the opposite Extremes.

ON which of these two opposite Extremes will you chuse to dwell, in order to come at the Knowledge of human Nature? If you inquire of Mankind in general, the Question has been resolved ever since the Beginning of the World. To say that human Nature may be known under the Weakness and Infirmities which disguise it, is the Height of Folly and Madness. To acquire a true Knowledge of Man, his Qualities, Faculties, Rights, and Agency, we must take a View of him in good Health, in Honour and Reputation, and in a proper Disposition of Body and Mind, void of Trouble, free from Turbulent Passions, and without that Blindness which is the Consequence of them. There is perhaps no Man in the World but may be sometimes, and in some respects, in this happy Situation: At least, very few could be produced as Instances to prove the contrary. Such are the Traces of primitive Nature; but alas! these Traces are easily confounded, and sometimes quite effaced, much in the same Manner as Sight is lost in living Men.

II. A MAN in his full Vigour, in the Heat of Youth, while he gives full Swing to all his

his Passions and indulges every Caprice, thinks himself cramp't by Religion, and endeavours to shake off its Yoke, by renouncing it entirely: But whether before abandoning himself to this Licentiousness, and leaping over the Barrier without Remorse; or after having dissipated his Strength, evaporated his Fire, and thereby cooled his Passions; why should he have the same Aversion to Religion, and think the Worship of a supreme Being troublesome? Perhaps because he might despair of Pardon for his past Sins. But, whatever *M. de Montesquieu* may please to say or think, is there any Religion in the World that does not expressly teach, that the Deity is appeased by Sacrifices and Prayers, by good Works, sincere Conversion, and redeeming the lost Time? Thus all Men, excepting a few Wretches, have very remarkable Periods or Intervals, wherein they confess that Religion is not only good in itself, but also the most comfortable Azylum for all Mortals.

III. I allow that a Man boiling with Rage, and possessed with a vindictive Spirit, will not spare the Life of his Enemy, nor be at all sensible, that as he does not like to be killed

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himself, he ought not to kill his Fellow-Creature: But is such a Man always in that Way of thinking? When calm and composed, if he unfortunately offends another, he readily acknowledges that the Axiom is just and necessary in Society. There is perhaps no Man in the World but what acknowledges it, in the Case of Injuries, Frauds, Thefts, and Depredations committed against himself, or on Persons whom he loves or respects. Traytors, Robbers, and the greatest Villains, as abominable as they are, as soon as they form any Society constantly acknowledge it. And will you now venture to ask, whether human Nature is decisive in those Points?

IV. I CONFESS, that a Man who finds his Wife troublesome to him, and passionately loves his Neighbour's, sincerely consents to the Exchange I have mentioned in a former Chapter, and wishes for nothing but complete Dissoluteness. But let the Exchange be made, and allow him the Woman he adores, do you expect to find him still in the same Humour? Would he immediately after consent to the same Truck with another Husband that might be in the same Case he was in before? Would he

he approve of a general Licentiousness that should drive his dear Charmer to Despair two or three Days after he had got Possession of her? What then is become of this first Man? He is no longer the same. On which of the two will you rely, for the Voice of Nature?

I FARTHER agree, that a handsome, lusty young Man will admit of no Restraints in sensual Gratifications: But he must gradually exhaust his Strength, and faint at last in the Carreer. And then can he help being sensible that he has sacrificed abundance of Pleasures and good Things to the Enjoyment of one only, which never can be worth the Rest collectively? Does he think then as he did while he was indulging his lewd Appetite? If he does not, you cannot be much puzzled to discern the Time and Circumstances in which you are to depend on what he says.



C H A P. XIII.

A MAN must have bid adieu to common Sense to assert, that it is agreeable to the Constitution of human Nature to be sometimes in Health, and sometimes sick ; one while wife, another Time foolish ; sometimes joyful, and sometimes mourning ; and that all this suits and becomes him in proper Time and Place. This is the utmost Stretch of Error and Prevarication, which some modern Authors have disguised by ingenious Works wrote in a Stile equally seducing and impious. Would any Man living consent to be sometimes in Pain, or to play the Fool, or be sorrowful, unless with a View to avoid a greater Evil ? Such a Paradox deserves no farther Answer : For if no Man, at any Time, or in any Climate whatsoever, would consent to Pain, Folly, or Grief, it follows that human Nature is always averse thereto, and never willingly gives Place to any of those Evils.

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IT is then manifest, that through all the Contradictions which I have already taken Notice of, we may discern in Nature a solid, uniform and invariable Character, which sufficiently indicates what it calls for, and what it wants, and by the Help of which we may go up to the Source of its Rights and its Laws. But on whom shall we depend, to investigate it nicely, to dispel the Mists that cover it, and follow it by the Track it presents to us? To every one that undertakes this Research, the Impediments of Sex, Age, and Prejudices will occur, and the latter never can be quite shaken off: And hence it is, that Men of the greatest Penetration, Authors of the most extensive Knowledge, favoured by Princes, or honour'd by the State, such as *Puffendorff*, *Grotius*, *Barbeyrac*, and many other Writers no less celebrated, have been subject, like *Homer* himself, to nod sometimes, and bewilder themselves, racking their Wits to salve Appearances in Articles of the greatest Importance.

EVERY Man has not Fortitude enough to enter the Lists at Home against Error and

Vice. Such Fortitude is so rare, that it would be very difficult to find any that have sincerely set about resisting their principal Bent or predominant Passion: They are resolute enough in all the other Articles; they accuse themselves, make a vigorous Opposition, and sometimes come off Conquerors in several Points; but always make themselves Amends by the Article that concerns them most: Reason, which triumphs in all other Matters, is constantly a Slave here. Every thing serves to give a Colouring and a Glofs to that which we take most Delight in: We excuse, nay, we justify it; and as the most effectual Way to do it, is to establish an invincible Necessity, a natural Bent, and a general Example, as well as certain Consequences which appear favourable when compared with the other Excesses that ruin and dishonour Mankind, it happens that the most learned always impose upon themselves first, and then deceive other Men.

A SUPERIOR Genius, of an amorous Complexion and strong Constitution, may bravely dive into Nature, in order to set Justice in a fair Point of View in the midst of all the Misery

fery brought upon Men by Anger, Avarice, Deceit, and many other Passions and Vices: But the Moment he touches on the Passion of Love, we no longer see the same Elegance and Fire, nor the same Strength of Argument; on the contrary, he becomes weak, sneaking and pitiful. Now, as this Subject pleases most Men, all that give him a Hearing take but little Pains to weigh and sift his Discourse: They easily excuse themselves from the Trouble of examining, on account of the Credit which the Author has justly acquired in all other Articles, which don't much concern his particular Case or Bent, Thus, disguised Error persists; and the general Consent, which they suppose it to have acquired, establishes and insensibly confirms it, giving it even the Weight of Authority, which passes for a Law; so that from thence forth none will dare to meddle with it. The same is done to almost all other Vices by their favorite Authors: And I doubt not but that if there were any *Algerine* or *Tunisian* Civilians, they would find Arguments to prove that there is some Honesty and Justice in Piracy and Depredation.

IT is also very hard to guard against an Equivoque and a Paralogism very frequent among Men. There is an Evil which is always preferred to a greater. There is an Evil, which Men commit, for want of being able to do the Good that ought to take Place of it. Society is more injured by one Crime than by another: And every Man has not Strength and Means to do all the Good that becomes him. One Man kills another in Defence of his own Life, because he wants Coolness, Discernment and Dexterity to save both. Some take up with Courtezans, to avoid greater Infamy. Officers of Justice, Executioners, Axes, Wheels and Gibbets, are only good to prevent and stem the abominable Torrent of Vices and Cruelties, with which corrupt Men would otherwise deluge the Earth. Hence a fatal Prejudice is formed; the World taking that for a real Good, which is only a lesser Evil that prevents a greater, for want of Means to supply its Place by such a Good as is precisely wanted. Even among the Literati there are but few that don't mistake this Matter, not to reckon such Authors as are devoted to a Country, to the Government, or the private Interest

Interest of Princes, and sometimes engaged to maintain Positions and Assertions advanced in their former Works. How should such Men as these attack and overthrow Prejudices, which perhaps they don't perceive, or which fly away and vanish as soon as they are pointed out to them?



C H A P. XIV.

AFTER this short Sketch I know not whether they will still venture to assert, that we may rely on any particular Man, even the most learned in the World, for a certain Knowledge and solid Decision of what is just and honest. Thus, though the Ground of Nature is to be found, we may always be uncertain of finding a good Guide to it; and every Man that would trust none but himself in this important Research, must be the proudest and most rash Creature living. Is not every one subject to Prejudices, and to all the Illusions consequent thereon? What Inference, then, must we draw from all this evident Light and Knowledge? The Inference is, that the

the Author of human Nature would not forsake Man in the deplorable Confusion and Blindness into which he had plunged himself, but would enlighten him, and lead him by the Hand in the important Search after Good and Evil, Justice, and sovereign Equity. Those Civilians who have deviated least from divine Revelation, have succeeded in this Inquiry better than the others, such as the illustrious *Grotius* and the learned *Barbeyrac*, notwithstanding certain Prejudices, which they durst not entirely shake off, either for want of Courage or Attention. On the contrary, the most material and most dangerous Errors have been the Portion of all Authors that have forsaken or concealed Revelation, in order to substitute thereto, without being sensible of it, human Traditions.

FOR Instance, has M. *de Montesquieu* done any thing more in his elaborate Work, than giving a Loose to his Genius, and displaying his singular Talents, in order to reason on a Heap of Laws, Customs, and Texts, artfully chosen to suit his System? A System which he durst not plainly disclose, lest he should shock his Countrymen and the Majority of Mankind,

Mankind, without gaining even the Good-Will of Republicans. It is a large Stride already, to have given the Preference to all the Relators of Customs in the remotest Parts of the East, who are so liable to Exception, and to have collected the Fragments of the Laws of the *Greeks* and *Romans*, and most other idolatrous Nations, all the Interpretations of which, and the Consequences he has drawn from them, he himself would not warrant. He talks of *Genoa*, and of *Venice*, where I was born, and where he himself did formerly reside some Time; and yet I doubt not, in case of re-printing his Work, but that he will amend most of the Passages concerning this Republick, if he is a Lover of Truth. What Stress then is to be laid on the rest, which is grounded on little else but Suppositions? If this great Genius had gone upon a more solid Foundation, and divested himself of the Prejudices cultivated in his florid *Perſian Letters*, what a valuable Work might we not have had from his Hand!

BUT this we shall ever expect in vain, so long as Men will not respectfully inquire of divine Revelation, which ought to be considered as

as a sacred Basis. We must soar above the cloudy Atmosphere of impure Corporeity, and perhaps even above a *Proteus*, which we never hold fast, by reason of his continually changing Shapes in our Hands: You think to grasp solid Marble, and 'tis only a Piece of Ice, which instantly melts in your Hand, or a Fire-brand that burns your Fingers. We must either absolutely deny that there is, in respect to us, any such thing as the *Source*, the *Strength*, and the *true Spirit of Laws*, or else that it is to be found in Revelation only.

You will perhaps say, with the pretended Free-thinkers, that Revelation is not so authentick as it ought to be, to make us follow it as religiously as is requisite for our profiting by it. But have you carefully inquired into its Authenticity, without obstinately and wantonly setting yourself to combat it, and wrapping yourself up in thick Darknes, that you might not be able to discern it? It is happy for the World, that every honest Man, who has set out on this Inquiry with an upright and sincere Heart, has returned with Satisfaction and Comfort sufficient for his whole Life; and the Proofs he has publickly given of it, always

ways subsist with unshakeable Stability. I have perused what has been printed on both Sides of the Question, and very much doubt whether any Additions can be made to what some Men have dared to vent within this Century, in order to invalidate Revelation: Yet one single Blast is capable of totally subverting the whole Machine of Impiety. We should justly deserve a Lodging in *Bedlam*, if we rejected human Tradition in general; and yet we must either totally reject it, or acknowledge Revelation itself on that very Evidence.

NEVERTHELESS, there are Men of Figure and Reputation in the World, who swallow those Camels as easily as they would Flies. Are there not modern Authors, that have bent all their Studies and made the utmost Efforts to persuade us, that Vices and Crimes are not less useful and proper in human Society than Virtues, and that to seclude from it such Villains and Wretches as are intitled to the Gallows, is sufficient; as if they dreaded for themselves the most ignominious and cruel Punishments? Indeed the Guilty do not forfeit all Claims to Compassion: But don't the Innocent that suffer by them, and the Society which

which they destroy, deserve more Compassion? Is it not Mercy to wretched Criminals, to deliver them as soon as possible from the sting- ing Remorse of their Consciences, and the dismal Situation of a Prison, a Galley, and Tortures? But if you suppose a Criminal once capable of getting the better of all Remorse of Conscience, would he not then immediate- ly become a Monster unworthy to live?

YET thus far have some modern Civilians proceeded; but, notwithstanding the most refined Dissimulation and most artful Sophistry have been employed, they could not quite conceal their dangerous Sentiments on the most important Articles of Law and Justice: We cannot follow their Principles, without perceiving all the Foundations thereof to be sapped and undermined. If they themselves do not clearly deduce the Consequences, 'tis because they would not shock and discourage their Readers at first Sight: They only want to gain Ground upon them insensibly, and in this Drift they act consequentially. *Si quod tibi vis alteri feceris*; they know very well what they want themselves, *i. e.* no Constraint, and seem to offer none to others. Thus do they

they abuse the famous Axiom, and thus will all the World abuse it, unless another Principle regulate and limit it, by previously prescribing what each Individual ought to will and do.



C H A P XV.

IT may be objected to me, that Revelation is not less obscure and liable to Contradictions, than Nature itself and Humanity. They cavil about Mysteries, Variations, Hebraisms, Translations and Interpreters : They pretend that in the sacred Writings one finds always both Sides of the Question ; and in short, that the most religious Observance of the Scripture does not make us better Men nor better Subjects. On this Head Mr. *Bayle* has been guilty of excessive Rashness, in speaking of *David* and other illustrious Champions of revealed Truth. This fiery Critick has set up a Model of his own making, for the Test of all honest People and the most pious Persons in the World ; but it is not surprizing that they do not come up to his Model. Mr. *Bayle*'s honest Man is one whose Imagination is always fullied

fullied by the most filthy Objects, and who has least Charity for his Neighbour. He exclaims without Reason against his Enemies, since he himself teaches them to suspect every body of Insincerity: And as Religion, most certainly, is not his strong Side, he cannot persuade himself that others may be more religious than himself. His sole religious Object is Liberty to say and do any thing, without Reproach and without Chastizement; for he grants not the same Privilege to his Adversaries, and 'tis not for nothing that he disputes it with them. On that Model it would be very difficult to make *David's* Eulogy, or that of any other honest Man. But Mr. *Bayle* is not the only Writer that limps on this Side.

HOWEVER, an honest, learned Man, who goes directly to the Source of Laws, who examines the Strength of them, and dives into their true Spirit, will confess that nothing hinders him from discovering it in the Revelation that has been given us. Nothing is more evident to him, than that this same Spirit of Laws, though singular and constantly uniform, must produce considerable Changes in particular Laws, which in proceſs of Time appear contradictory

tradicitory to themselves, as the Circumstances of Societies cannot fail of altering likewise. The Regimen that suits a Person in perfect Health, will not agree with him in Sicknes; and the Medicine that cures him in one Distemper, would kill him in another. A Patient at *Batavia* cannot be treated in the same Way as at *Stockholm*. Men live on Mountains in a Way that does not agree with the Inhabitants of Vallies and Sea Coasts. A sorry Hack wants the Whip and Spur much more than a free, mettlesome Horse.

A SPIRIT that loves and cherishes Men, wheresoever situated, and in whatever Condition they be, cannot dispense with himself from adapting his Laws to their natural Wants and Conveniences, in order to make them happy in all Places. But notwithstanding all those apparent Differences, we necessarily discover an Uniformity and an invincible Constancy in the main Charasteristic, calculated for the Happiness of human Nature, and equally distributed among all the Individuals ; which Happiness is to be acquired only by Wisdom and Virtue. It is in vain to substitute thereto the *Pyrrhonian* or systematical

Doctrine, and the Grimace of Fanaticism, whatever it may be: This is not the Wisdom and Virtue from whence flows the Felicity of Man, the sole Object of the Spirit of Laws.

A SUPREME Being; a Father of Mankind; a physical Disorder communicated by Generation to all the Descendants from the first Couple; the Identity of the same Nature, and of the same Family in all Men without Exception; the immediate Disposition of an absolute Providence, which cannot be resisted, yet delights in Mercy, and is willing to grant the sincere and reasonable Wishes and Petitions of his Creatures; a Physician, a Propitiator, that is to say, an omnipotent Mediator, who unites the Godhead with Human Nature, in order to bring them as near as possible to each other, furnishing the necessary Means to effect in due Time the intended Reprisitation: These are Articles in which there is neither Obscurity nor natural Contradiction. No *pro* and *con* is to be found in them; no Hebraisms, no various Readings, and no jarring Translators and Interpreters. Nothing more is wanted, in order to ascend to the Source of Laws, without stumbling, and without Danger of

going

going astray. It is there you will find the immovable and sacred Basis of the true Right of sovereign Princes, who would soon be shaken, if they depended only on popular Force, the chimerical Point of Honour of the Nobility, or the Republican Virtue. From this divine Source that supreme Law must flow, which regulates the Axiom, *Quod tibi vis alteri feceris*; without which it would be rank Poison to human Nature in its present corrupt State. Apply this Maxim to a sick Man, and you will immediately see the fatal Consequences resulting from it. It is just I should treat others as I would be treated, provided the Treatment I require of them be just and convenient. Ignorance, Weakness, and Passion being the Portion of human Nature, every Individual is not at Liberty to decide this Matter. None but the Deity can pierce through and dissipate the dark Clouds and Mists; therefore it belongs to him alone to give a final Judgment without Appeal, and pour out the balsamic Draughts that cheer and nourish the tender Fruits of his Love.

I AM not insensible that a great Number of first-rate Scholars will be offended at my

proposing Revelation as the only Source of Laws. I could have been very glad to have spared them this little Mortification: But as they never have produced any thing solid against it, and as Liberty to contradict them has always been allowed, I could not avoid recurring to this, and running the Risque of disgusting them, rather than conceal the Truth which I am firmly persuaded of. I only follow the best Lights of excellent Authors, whom I have made Use of, and shall continue to do so as long as I live: And moreover, it is those Cavillers themselves that have shewn me this only Road, as they have but too plainly evinced, that all other Roads were barred by insurmountable Obstacles. In vain have they endeavoured to dissemble and conceal those Obstacles: They strike us the Moment we offer to push on to the End; and even those who in the Wantonness of their Hearts wilfully shut their Eyes, that they may not be forced to acknowledge them, must needs have returned with a disordered Brain.

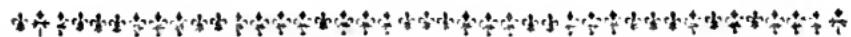
THE Objections abovementioned do not stop me, as I have room to think them perfectly confuted, by all that I have collected in

in my former *Italian Works*, from what the best Authors have published on this important Article. I confess I have given the Preference to those who best demonstrated their great Learning, by a good Life and important Services done to Mankind. Alas! we are naturally so corrupt, that there is no Need of Interpreters of Laws to help to sink us lower by their Doctrines and Examples. Let us, as much as in our Power lies, preserve a reasonable Restraint, and bridle the inmost Sentiments of our Souls; for without this, Society, Princes, and Manners, rest only on pure Grimace, which ought to be abhorred as destructive of Mankind.

I now proceed to the *Strength of Laws.*



THE
S T R E N G T H
O F
L A W S.



P A R T II.

C H A P. I.

N order to know what is the Strength of Laws, or, in other Words, what induces Men to seek, love, and fulfil them ; or what forces them to submit thereto, and brings them back to this Duty, when they dare to resist it ; we must always bear in Mind what the Law is, ac-

cording to the Idea I have given of it in the former Part of this Work, which I briefly sum up here.

THERE is a natural Law, necessarily intended not only for the Being, but also the Well-being of every Creature ; so that without this Law it could not subsist, nor attain to its due Perfection. It is this Law, common throughout Nature, which places all Beings in their proper Situation in the Whole, that they may mutually actuate and give each other such Succours as are indispensable, to the End that none may want any thing, nor others have more than is necessary : So that all Things be distributed in a due and regular Proportion, and constantly subsist, or be capable of Reprisitation, in case the Weakness or Defect of the Matter does not exactly answer the Intention of the supreme Creator.

THE sovereign Intelligence that produced all Things, and acts incessantly in Nature, to conserve, correct, and reprobate or renew it, is therefore the sole Source of this universal Law, by the Design he formed, and the Object he proposed, in producing it. Unless

less we dive into that first Design, and get a clear View of that grand Object which is prior to the Creation, all the Inferences we might thence draw, from what now appears to our Senses, would be very liable to Exceptions. I ask any sober Man, whether he can presume to penetrate so far, unless this same supreme Intelligence helps him in the Search by an immediate Revelation? If he cannot, what avail all our Efforts to ascertain the true *Source, Strength, and Spirit of Laws*, that is to say, their Intention? And indeed it is evident, by M. *de Montesquiou's* pompous Work, that the dazzling Title of *Spirit of Laws* can bear no fixed Meaning. After going through with it, and picking out of it a thousand good Things, with some judicious Reflections, you are just as wise as them that never heard of it, or lived in any Age before this celebrated Author.

THERE is likewise a Law peculiar to Mankind, which does not bind Beasts, Insects, Birds and Fishes. This is a Family and a social Law, from which, whatever is not of the human Species is manifestly excluded, as not being susceptible thereof, and would be neither

ther more nor less subsisting and perfect by not submitting to it. Do not lay any Stress upon the Beavers, the Bees of the incomparable M. *de Saumur*, the Nests of Birds, the Holes and Dens of Beasts, the poetical Fidelity of Turtle-doves, the Amours of Nightingales, the Folds and Coverings of Caterpillers, and abundance of other Mechanisms discovered by the most faithful and accurate Naturalists: For all this no more implies any Affinity with Humanity, than the Metamorphosis of Worms into Butterflies.

CONJUGAL, paternal, filial, fraternal Sentiments, both in Lords and Vassals, Masters and Servants, have nothing in them that is common to Beasts: In like Manner, the Conveniences of Life, the Advantages of Society, the necessary Precautions against the Injuries of Weather, Water, Fire, Insects, Beasts, and even of Men, were never understood, nor ever seen, but among Mankind, nor can they suit any other Creatures. Among Animals there are no Arts and Sciences: For if the Arts attributed to them were in any Measure real, they would no Way resemble ours, but would appear incomparably more perfect, just as

as the Action of our Machines. Setting aside Mathematicks, Policy and Morality, Mechanicks alone decides the Question in Favour of Men.

AND indeed this Law peculiar to Humanity, necessarily flows from the general and universal Law of Nature, and is but a Consequence of it; Men being also truly a Part, and even the principal Part of it, as may be easily demonstrated; unless we deny them all Manner of Understanding, or else distribute it equally to all the Beings in Nature; which cannot be maintained nor proved. Thus it is, that in the human Body there is a general Law, which governs the Whole; and from this Law a particular one is derived, for the Government of the Head, which does not suit all the other Members that depend on it. The Law of the Eye has scarce any thing in common with the Law of the Hearing, Smelling, and Tasting. Just so it is in universal Nature.



C H A P. II.

THOUGH Generation be common to all Kinds of Animals, the Sentiments abovementioned, of Husbands and Wives, Fathers, Children, and Relations, and other Sentiments derived from them, do not at all appear in Beasts. If there be any Traces of them, they are very rare and transient; and perhaps they are construed so only by reason of the Affinity they have with the Effects which those Sentiments produce in us. It would be a great Mistake to imagine from the Exterior of a little Machine, representing a Coach and Horses on a full Trot, that it was really drawn by little Animals. 'Tis a moving Image that deceives us, its internal Spring leading our Senses into a manifest Equivoque: And whoever should argue from the Motion of this Machine, to prove the Animality of the Horses, would justly be laughed at.

THE Male among the Beasts does indeed couple with the Female, and makes her conceive,

ceive, but without any View to Posterity, or to better their Condition, and live more commodiously. The Difference of Sex does not even appear very distinctly visible in all the Species; and if we credit Naturalists, there are many Hermaphrodites among the brute Creation, chiefly among Fishes and Insects; at least, the Number of Females greatly exceed the Males. As soon as their little ones attain to a certain Degree of Strength, they no longer own them. The Fathers and Mothers roughly drive their Children from their Nests and Dens; and the latter, far from having any Respect, Attachment and Gratitude for those that brought them into the World and nourished them hitherto, are ever ready to fight with them about the least Scrap of Food, and are just as quarrelsome with their Brothers, whom they fear still less.

THE instinct observed in divers Species, to feed their young Brood the Moment they are born, is not yet clear enough to make us positive, that there is not something in it analogous with the Communication of the nutritious Juice in Plants. Whether the Products be inwardly annexed, or detached like Eggs, it is

is much the same as the Fruits of Trees: As soon as they are ripe, they break loose, and fall of themselves. All this is so mechanical in Beasts, that there is no Instance of an Animal taking Care to feed another of the same Kind that has had the Misfortune to spoil the Organs necessary for procuring Food: It will not take the least Trouble about healing the sick one, but lets it die without Help, without Regret, and without Burial. It must therefore be owned, that the Instinct of Beasts to feed their young ones, does not depend on any inward Reasoning, Faculty or Principle.

I AM not ignorant that there are even some Authors, who idly dream and insinuate, that all conjugal, paternal, amical, and, in fine, social Sentiments, are nothing but Effects and Consequences of Education, without which Men would not be more sociable than Beasts; and this they pretend to prove by Instances of some Savages, of which they give imaginary Relations. It is just as wise, as if they drew a similar Consequence from a Lunatic living in the Woods like a Beast, who, having found a female Partner, should have communicated his Madness to all his Posterity, as it happens

happens but too frequently in human Nature. It is not from a few Individuals, that we must deduce what belongs to the whole Species. It would be a gross Mistake to ascribe to Dogs, Monkeys and Elephants, what we see done by some of them, that are broke to certain Exercises and Tricks, and taught to do Service to Men: It is from the Generality we must argue and form Conclusions; and herein the Error of those Authors is glaring at first Sight: By this general Plan we immediately discover the Weakness of their Principles, and the Malignity of their Arguments.

If Education, which inclines Men to Society, to true Tenderness and Love for their Wives, Children, Relations and Friends, be the same every where, it is therefore determined and produced by Nature, which is the same in all: But if this be not true, and that in Spight of a total Difference in Education, the same Sentiments are manifest in all inhabited Regions, it must necessarily follow, that Nature itself instils and keeps up the same Sentiments in all Men, whose Organs are not subject to some Disorder. Chuse which Side of

of the Question you like best, it will not be less true and demonstrable, that the natural Disposition of Humanity inclines you to Society, Tenderness and Compassion, and to all Duties that depend thereon.

EVEN though some Exceptions to this might be found among the innumerable Individuals that have made and still make up the Mass of Mankind, all the rest would concur in a Disapprobation of any contrary Sentiment; they would declare it inhuman, and rectify it if possible; and if it could not be rectified, they would punish the Authors of it, and quite seclude them from Society. Will any one dare to deny a Fact so notorious and common among Men?

Now, if there is a general Law for Nature, there is also a special one for Mankind; and it is the latter that constitutes the Law of Nations, and which, abstracted from any previous Convention, binds and obliges all Nations, and all People, to help one another to the same Advantages, and mutually give each other the same Honours, as Brothers of one Family. It is in Consequence of this general

neral and sovereign Law, that all Societies are authorized to hold together, in order to employ Force against Rebels, and punish them by War and Slavery, and such Desolation as attends the same, whenever they dare to trample upon those sacred Laws of Mankind.

C H A P. III.

THESE two original and supreme Laws must, in all Ages, have been productive of particular Laws, more or less extensive and durable, according as Nature and Humanity required it, both being liable to considerable Changes through the Weakness and Defect of Matter. The gross Exhalations from their Fund of Corruption, would at last have eclipsed the two Laws I am speaking of, had not the Author and Protector of Nature, who is also the Father and Guardian of Men, taken Care to draw these two architectonick Laws from behind the Clouds and Mists which hid them from mortal Eyes. This is the Occasion and the Necessity of the divinely revealed Law, and the sole and principal Source of all human Laws, which cannot acknowledge any other

Foundation than the Law of Nature and Humanity, adapted to Times and Places, to the Weaknesses, Customs and Conveniences of Men.

I HOPE I have, in the first Part of this Work, sufficiently shewn the Contradictions and Obscurities in which Men have involved the Source of Laws, and how they have concealed from themselves the most essential Truths, in spite of the Efforts of Nature and Humanity, to preserve within their Breasts the Ground and the Substance thereof. I even flatter myself to have proved, that it cannot be lawful to any one to rely on his own Discernment, nor on the Knowledge of other Individuals, to penetrate into and investigate the Laws of Nature and Humanity, and dissipate the Mists in which they are involved, in Consequence of Man's Corruption. So that unless the supreme Deity himself intervene by his paternal Care, to enlighten and strengthen us in this painful Task, we can make no Progress in it: All our Efforts to this Purpose would be fruitless, and probably pernicious, as is evident by the great Number of Dissertations on Nature and Humanity, published within

within these thirty Years by the pretended Free-Reasoners.

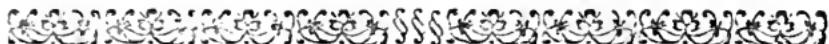
IN fine, I doubt not but a little Reflection on the Multiplicity and Variety of human Laws, with which we are beset on every Side, will force us to confess, 1. That Man is very sick, since he requires so many different Medicines, and such extraordinary Regimens, to preserve him. 2. That all this does not produce the intended Effect, since new Prescriptions are always wanting, to repair the Defect of the preceding Medicines. 3. That our Expectations from all those we might yet invent, are no better grounded. And, 4thly, that were they all laid aside and abolished, the World would immediately fall into the most deplorable and fatal Chaos imaginable, and in less than one Generation be irrecoverably lost.

THIS is what the wifest Legislators and most celebrated Civilians have unanimously confessed in their learned Works; and to dispute it with them, would be downright Madness. And yet it cannot be denied, that all human Laws, or, at least, the greatest Part

of them, are an Emanation from the Law of Nature and Humanity, but so confused and uncertain, that Corruption has been very frequently taken for Nature, and Prejudice for Humanity. And hence it is, that it is no Rarity to find Laws among Mankind that favour Vice and give a Sanction to Crimes: So that the Evil goes on increasing without End or Measure, unless the extreme Damage accruing from it rouze Mankind, and urge them to shake off this tyrannical and cruel Yoke, in order to submit to another, which sometimes is not worth the Trouble of an Exchange.

But even though the Emanation were good, and the Fund from whence the human Law is derived were pure Nature itself, we could not expect much from it; for in passing through such corrupt Hands as those of mortal Men, it cannot fail of contracting Stains and Impurities in the Execution: Therefore they cannot avoid rectifying and purifying it now and then, and giving it a new Degree of Activity and Strength, that it may produce its Effects. Hence it is, that even the revealed Law has been liable to Reforms, and to be

be new modelled sometimes, in order to suit itself to the Weakness and Infirmities of human Nature ; just as the best Aliments and the finest Garments stand in Need of being altered or scoured, on Account of the Stains or Foulness unavoidably contracted by internal Digestion, or external Exhalations. This is the sole Source of the Obscurities, and the Difficulty of interpreting, which are objected to the written Word of God : Men have mixed their Prejudices and Weaknesses with it. Respect it as you ought, and you will immediately find it as clear, easy, lively, strong and salutary, as can be wished : But while you raise about it a filthy, thick Mist, exhaling from a depraved Imagination, in vain you seek therein that perfect Purity which corresponds with the sacred Source from whence it flows.



C H A P IV.

BUT this is not all. The Laws want Strength; and therefore must perish in process of Time, or fail in their intended Effect. I speak here of the Law only as human, since every Law, whatever it be, becomes human the Moment it behoves Men to understand, embrace, and execute it. The Law in itself may be robust and strong in the highest Degree, and yet become weak as soon as it falls into our Hands; just like *Sampson* on *Dalilah's* Knees, or the hardest Steel in a Furnace.

BUT do not imagine that I mean the outward Strength of the Laws, as corporal Punishment, Infamy, and Death: So far from it, that I account all this but as the weakest Side of the Laws, as will be seen in the Sequel. All Force in the Hands of Men partakes of their Weakness and Indolence: The more rigorous the Commination, the less it obtains its End. Among the most barbarous Nations,

Nations, where there is less Regard to Humanity, they insensibly grow so obdurate, as to make light of the most ignominious and severe Penalties; nay, they glory in bidding them Defiance: Death is but too frequently a Benefit to desperate Villains, and in *England* to such Persons as are ever so little weary of Life. On the contrary, civilized and polished People cannot but be very sparing of Torments and cruel Executions, as finding them but little proportionate to the Crime: So that Delinquents flatter themselves that they shall easily escape, and do but too frequently escape Punishment.

MANY Legislators are much mistaken in supposing all Men perfectly equal. This is very far from being true. A *Barbarian* is barbarous both in Pleasure and in Pain, Barbarism being rooted in him. A Man that is polished and improved, is polite and refined in his Pleasures and his Sorrows, in Proportion to the Education he has had. We must reason upon Men as they are, and not as they ought to be, or as we would have them; unless we had, by long Discipline, like *Mines* or *Lycurgus*, succeeded in instilling Sentiments

into the People, adequate to the grand Object of the Legislator. Thus it is, that all outward Force becomes Weakness, with respect to the Law, when the Mind of Man is not prepared and fitted for the intended Effect.

DEATH and Torments do indeed shock every Man at first Sight; but let him not dwell long upon them, for their hideous Aspect insensibly vanishes, and he may even come to wish for and embrace them, if once, disregarding the Dictates of Religion and Self-preservation, he is strongly possessed with Sentiments of Honour, Glory, Love for his Country, Tenderness for his Wife and Children, and sometimes for a Friend. How many fine Reflections might be made on all these Articles! after which we might ask M. *de Montesquieu*, Whether nothing else but the Hope of eternal Rewards promised by Religion makes Men escape the Legislator? I know not whether he would dare to deny, that the Spirit of Patriotism among the Greeks and Romans, a Mistress admired by all the World, the Point of Honour in War among the French, and meer Infatuation alone in England, might not do as much? Why did he strike at Religion only?

NEITHER

NEITHER can I forbear observing, that as the most excruciating Pains do not last long, the Thoughts of their being soon over greatly abates the Torment ; so that Death itself is but too frequently considered as a Benefit, by Men languishing in Pain, and much more by such as are suddenly seized with a violent Terror : Then they freely leap into the Jaws of Death, as into an Asylum. Nay, the bare Prospect of publick Infamy will urge Men to this, and Women also, at least among the Inhabitants of the Island of *Ceylon*, where they demur not at leaping into the Flames of their Husbands Funeral Pile.

I SHALL not dwell at present on the deceitful Hope of most Delinquents to escape the Punishment decreed by the Law ; this being so notorious that all the World allows, that three Fourths of the Criminals on the Face of the Earth become so only through this Illusion. Not but that there are an infinite Number of Instances, where Offenders have taken their Measures so well, that they effectually frustrated the Pursuits of Justice, and escaped Punishment ; were it not for this, so many

many Men would not be the Dupes of it. But those Wretches, becoming bolder and more hardened by the Success of their first Attempts, repeat their Crimes afterwards with so little Circumspection, that most of them fail not of being apprehended, and paying at last the just Penalty of their Deeds.

WE must not imagine that this is owing to any Relaxation or Remissness in the Magistrates; for it will always be a Question, whether the Frequency of publick Executions is more advantageous than their Rarity. It is clearly decided by the Testimony of all Histories, that whenever a Sovereign Prince has set himself to act with inflexible Severity against Offenders, and fully exerted the Power he was possessed of, it was then that his own Weakness appeared, through the Opposition made by the People, who were alarmed, soured, and driven to the last Extremities: So that the constant Remedy, in such Cases, was to reform the Government, and blunt a little the Edge of the Laws. The best Subject of a Prince is perfectly sensible of his own Weakness, and ever afraid of committing a Fault: But when he sees rigorous Vengeance denounced

nounced against the lightest Offences, he immediately sides with the Guilty, though innocent himself, and abhorring a Crime; and then the Weakness of the Government becomes manifest.

THUS the Strength of Laws cannot lie solely in the Penalties denounced, and the Punishments inflicted on Criminals, as these are often eluded, and sometimes endured without the least Concern: They never deter Men from Wickedness, unless they sincerely dread them, and entertain no Hopes of escaping them. In order to fear, we must love the Good which we are to be deprived of by the Punishment decreed against Offenders: And so in the Case of loving, the Object of our Love must be well known; it must persuade us of the perfect Happiness we shall have in possessing and preserving it. A Man that leads a miserable Life in a poor Village, or wretched Town, where he has few or no Relations, and no Prospect of bettering his Condition, will not much regard Banishment for a Misdemeanor. Another that has taken his Leave of Honour, and cast Shame behind his Back, by the most profligate Manners, is not in the least

least concerned at the Pillory. It is no Rarity to see miserable Wretches sell themselves for Galley-slaves.



C H A P. V.

BUT what renders all human Laws still weaker, is the Article of Rewards, which all Legislators have almost quite forgot; or else they durst not touch upon it, for want of Means. The incomparable *Moses* is the only one that makes it walk Hand in Hand with Penalties; and perhaps none but he could do it, considering that the Promises and Menaces from his Mouth were guarantied by divine Omnipotence.

ALL other Legislators have been defective in this Point, and seem to have regarded Men as Creatures to whom no greater Favour can be shewn than not tormenting them, or not taking away their Life. Is there any thing more shocking to human Nature? Those Legislators will indeed tell you, that they could not do otherwise, as having always supposed a thou-

a thousand honest Men to one Knave. How then could they provide Recompences for the Thousand? That, moreover, good Men are but just what they ought to be, to bear their own Reward in Hand, by enjoying the Benefits of Society, which cannot fail them, when every one does his Duty, and the Wicked are cast out and punished.

THIS is easily said: But, 1. There is not, perhaps, one in a thousand that strictly performs his Duty; and the least Deficiency is attended with pernicious Consequences, which sometimes go on increasing without End. The Foundations of Society are sapped and undermined by petty Offences, and not by great Crimes, the latter being soon discovered and chastized. 2. It is not sufficient that we do no Harm to others; we must do them as much Good as they do us; nay, we should, by our Benefactions and good Offices, meet those that are coldest and most slothful to do us Service, as is shewn by the Laws of Mechanism. 3. No People in the World think themselves happy, because they have barely a Livelihood for themselves and their Families, which is very seldom the Case of the lower

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Class of People, who are the Majority in all Nations.

THE general Sense of Mankind is well set forth in these Words, *Beatus populus qui scit jubilationem.* It is that Joy, arising from Pleasures and Diversions, which makes a People think themselves happy, and not hesitate to sacrifice every Thing in Defence of that Form of Government which makes them happy, and frequently allows them Spectacles and Diversions. This makes them Amends for all their Cares and Toils to earn a Subsistence. Man is naturally so fitted for Pleasure, that the Moment it is in Sight he almost instantly forgets all former Sorrows; especially in Shows and publick Diversions given by the Prince or chief Magistrates, where a great deal of Money is scattered and otherwise circulated among the People, who thereby enjoy for a while the Necessaries of Life in great Plenty. Every Man had rather have Pain and Pleasure alternatively, than to be always without either. The Privation of every Kind of Ease and Indulgence is a continual Martyrdom.

THIS was well understood by all civilized and polished Nations: The *Greeks* and *Romans* had

had sufficiently learned from the *Eastern Nations*, that the People must now and then have Festivals, Spectacles, and publick Diversions. Even the *Barbarians* have something of this Kind, though gross and rough as their Manners ; nor do I know of any People, living in Society, that has not stated Times for publick Assemblies, in Honour of their Gods, to commemorate their Victories, or to celebrate Marriages, and perform funeral Rites. If we may credit the Relations of Travellers, in the remotest Parts of the *East*, they divert the People, two or three Times a Year, with Festivities which are not a little lascivious : This is carrying the Thing too far ; and I fancy the great *Admirer* of the *Oriental*s would be very much puzzled to find an Excuse for it. The great Legislator of the *Jews* very wisely blended Religion with Policy in all this : And indeed these two principal Guides of Mankind ought always to act in Concert, otherwise Policy cannot long support itself.

THE military Laws plainly prove, that there must be Rewards, as well as Punishments, to make the Soldiers obey : And accordingly we
see

see that they are the most respected. If Soldiers had nothing but Punishments to fear, and no Rewards to expect, the Army would soon disperse: Fear would make nothing but Cowards, and extinguish every Spark of Generosity and Heroism. Military Laws are certainly the best enforced, because they hold Recompences in one Hand, and Penalties in the other: Yet they are not strong enough to produce an infallible and general Effect. They are indeed better than other Laws, but not so good as they should be: And the Reason of it is, that all Soldiers have not the same due Sense of the Evils they are threatened with, and the good Things promised them. This inward Persuasion is the Master-key to the Game.

THE Republics that had most Success in the World, are those that appointed honorary Recompences for such Members of Society as made a Figure in Arms, Learning, and moral Virtues: But the Prospects of such Rewards could not take with any but those Persons who had a Sense of Honour, and adored the Idol of Liberty, after the People had been trained up to it by a careful Education and

and strict Discipline, and confirmed therein by the publick Festivities and Spectacles. It is certain, that neither Rewards nor Punishments can have any Influence over Mens Actions, unless they be inwardly persuaded thereof, and cleave so fast to the good Things proffered them, as to esteem Life a Burden if they are disappointed of them, or have no Hopes of possessing them. In fine, this Persuasion is always the Key to the Game, as may be amply proved by Instances and Comparisons drawn from Physic.

You seldom see a Man calmly putting to his Lips a Cup of deadly Poison, because the Persuasion is general, that it will infallibly occasion a painful Death, and that there is no Pleasure in tasting it. On the contrary, it is no Rarity to see Men eat Mushrooms, and cohabit with Prostitutes, being led astray by the sensual Pleasures they expect from them ; for they flatter themselves that no Harm will come to them, or, at the worst, that they shall always have Time enough to apply a Remedy. But when we come to be sincerely persuaded, that there is no great Pleasure in Tasting, and that the Risque of being de-

stroyed is infinitely greater, nobody will any longer dare to make the Experiment: And if any one ventures upon it, he is condemned by all and pitied by none; especially as it is pretended, that every Man who is not delirious, ought to be guided by general Persuasion in Affairs of Consequence.

BUT this is not yet all. Physicians tell us, that *l'Aprensione fa il caso*, according to the *Italian* Proverb. Whenever an Object, that has no Manner of Existence, is realized by the Strength of Imagination, the same Effect follows as if the Object was real. We have sometimes seen Don *Quixots* perform as noble Exploits as any done by the Heroes of Antiquity for their Country and the Sake of Honour and Glory. A strong Imagination sometimes takes away the Reality of Objects, and sometimes realizes Chimeras. Internal Persuasion is therefore the chief Spring of human Actions, and of the Passions that influence us: And this is what every wise Legislator must endeavour to produce, if he would give any Strength to his Laws.



C H A P. VI.

U NLESS Men be thoroughly persuaded, that they cannot enjoy the good Things they have in View, nor avoid the Evils they dread most, but by fulfilling the Laws, every Law will be weak and languid, and generally produce no Effect. In order to enervate a Law, it is sufficient that we may flatter ourselves with the Hope of enjoying Pleasures, and avoiding Pain, without obeying it; which is but too frequently the Case.

Y E T the Persuasion that one Thing is good, and another evil, will not be sufficient to make us pursue the former and shun the latter: We must also be persuaded, that the Good is absolutely necessary, and the Evil intolerably grievous. All Mankind are not generally agreed in their Notions of Good and Evil, which is owing to the want of Reflection: But induce them to reflect seriously thereon, and you'll find them well enough agreed in the Main; the Generality being for

delightful Sensations ; and almost all having an Aversion to Pain. They readily allow, that the Permanent is preferable to the Transient, the Solid to the Empty, and the Real to the Imaginary : Nevertheless, as in the Circle of Pleasures there are some which are incompatible with each other, and we must make our Option between them, it happens but too often that Mens free Choice is differently made, according as they are differently disposed. As for Evils and Pains, they are all rejected, through a natural Repugnance : But it frequently happens, that Prejudice, Ignorance and even Knowledge, make us, naturally enough, prefer some Evil or Pain, that preserves us from a greater Mischief, or else seems to lead us to some Good, which we long for, and which we cheerfully purchase, by enduring an Affliction, without which, we are persuaded, it cannot be obtained.

IN fine, by long enjoying Pleasure, and constantly suffering Pain, the Sense of both is impaired : Their Edge is blunted, and by Degrees we are enured to do without the former, and to bear the latter ; as is demonstrable by the Habit of Labour and Study, in which

at last we take Delight, after having some Time made it a Duty. Hence it is that a Law, which might preserve you from any Pain, or procure you a certain Pleasure, would in Time become cold and languid ; and soon after quite useless, nay, perhaps odious, as might be proved by numberless Examples. A Law that procured to a Child the Pleasure of satiating himself with Fruits and Sweat-meats, and freed him from the Necessity of learning to read, write, study, &c. might have a vast Force and Influence over him in his Infancy : But as soon as he is no longer so fond of Fruits, and begins to be desirous of the Honour of appearing among well-bred Men, that Law has no more Strength with him, nay, he perhaps detests it. It is not the Law that changes ; the Change is in Man, and Pleasure and Pain change along with him.

Now, I defy any Man to persuade himself, that he shall not die, or that the Joys and Afflictions of this Life will not change ; so that he may depend on the continual Enjoyment of the former, and Despair of a Deliverance from the latter. The more we reflect, the more we are convinced of it : But,

without much Reflection, all Men in general distrust the constant Duration of present good and bad Fortune, and foresee a thousand Possibilities and Probabilities of a sudden Turn : And this must be set down as another Cause of Weakness in human Laws. It requires the utmost Skill to ward off the terrible Blow it gives them ; and I very much doubt, while People have no Ideas of Good and Evil, but with respect to this Life, whether any Laws can be found strong enough to keep them within the just Bounds of their Duty. Much less can they be persuaded, that the Pleasures they propose to themselves, and the Afflictions they endeavour to shun, depend on the Observance of the Laws : A thousand Reflections, and ten thousand Examples, daily suggest to them, that Pleasure may be obtained, and Pain avoided, abstractedly from the Laws, and sometimes even by infringing them. The World does not want for a certain depraved Taste, which delights in flying in the Face of the Law itself, and looks upon as an intolerable Yoke the salutary Right it assumes over us.

THE Premises being duly considered, can you imagine that the Law would have much Strength in the Hands of Men that had no Knowledge of, nor Relish for any thing, but the mutable and perishable Goods of this mortal Life ? If our pretended Free-Thinkers had any Regard for Conscience and Sincerity, I should readily refer the Decision of this Point to their single Testimony : For, with them, every Law is only an imaginary Being, a mighty Nothing, or rather a hideous Phantom. *M. de Montesquieu*, who vouchsafes to make a Shew of his Religion, has suffered himself to be misled by such Doctrines in several Places in his *Spirit of Laws*, and particularly in the 2d Chapter of the 26th Book, where he very ingenuously says, *There are States where the Laws are nothing, or only a capricious and transitory Will of the Sovereign.* From whence I cannot help inferring, that there must likewise be States, where the Laws are a *real Something* : But I desire no more at present than this single sincere Confession; for I am very sensible, that the Laws are nothing with the People of such a State. Oh ! how despicable must the Sovereigns of that State be, since the

Laws that establish and secure them, are reputed as nothing by their People !



C H A P. VII.

ALL Legislators have been of a quite different Way of Thinking, in regard to this capital Article. They were very far from being ignorant, that Strength is always relative to the Subject, and to the Object itself; and that a real and potent Being may be deemed very weak, if it meets with a Resistance equal to its Power. Wherefore, they all conceived, that in order to make their Laws prevail, they must begin with grounding their People in an invincible Persuasion of eternal Rewards and Punishments, never more to be susceptible of Change. It is thus that a prudent Physician, though firmly persuaded, that a certain Regimen is absolutely necessary for preserving the Life, and restoring the Health of his Patient, will not attempt to make him enter upon it, and relish it, without setting before him the Danger he is in, and the Pleasures that will attend his perfect Recovery. Now, all this is

very

very real, in whatever Light you view it, or whatever Turn you give it.

MODERN Innovators have idly jested upon *Minos*, *Lycurgus*, *Numa*, and others, who, to give Weight and Strength to their Laws, promulgated them as Emanations from the Deity. Those illustrious Men understood, much better than our great Scholars, human Nature, the Strength of Laws, and that divine Right over Men, which is the Prerogative of the Deity alone. I am ashamed of it, and yet I must observe, that even *Mahomet*, of all Mortals the most vain and presumptuous, reasoned abundantly better than certain incredulous Pedants. They do, indeed, make a great Pother about Imposture, but would find it a very difficult Task to prove any; since, for aught they know, some Intelligence or Dæmon may have guided those antient Legislators, or else some solitary Philosopher, who, like *Socrates*, might have, or pretend to have, a familiar Spirit. Must the World believe, upon the bare Word of certain *Literati*, that there are no such Beings as Dæmons and incorporeal Intelligences? Their arbitrary Warrant for it, commonly goes down with none but

but those that resemble them. The Bulk of Mankind require Proofs, and not Assertions and Doctrines which tend only to break all the Bands capable of keeping us within the just Rules and Bounds of Society.

BUT I may very positively assert, without Fear of Contradiction, that the Testimony of *Minos*, *Lycurgus*, *Numa*, and of every other original Legislator, not excepting *Makomet*, proves that the Deity must intervene to bind Men; and that without the religious Veneration which is naturally due to him, on Account of his Omnipotence, and infinite Goodness, the Effects of which reach beyond this mortal Life, it is impossible to give any Strength and Consistence to the Laws which it is necessary to make Men observe, in order to render them as happy as possible. When once this Persuasion is deeply rooted in Men, whom Nature invites to embrace it, nothing then remains but to demonstrate the necessary Correspondence between human Conduct and the Deity, whether with regard to his supreme Nature, or with respect to his Design in creating the World, and Man, who is indisputably the principal Agent therein. As soon

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as this Chain is well linked, we may defy any human Power to break it.

BUT we must take great Care not to fall into a Mistake in reasoning upon Laws with respect to Men, and always nicely distinguish internal Will from external Execution. I expected to find in our celebrated Civilians some important Reflection on this Head; but perhaps I overlooked it, or cannot recollect it. Nothing is generally proposed but the Execution of the Law, without minding whether the People will understand, approve, and sincerely desire the Law: But, without this, the Execution is only transient and deceitful; and as it depends no less on the internal Will, than on external Means, so the latter do not always depend on Men, nor on the Law.

A BATTALION is commanded to relieve another at Break of Day, in order to defend a Fort on the opposite Side of a River. In the Night the Waters swell to such a Degree, that the Bridge is broke down, and all the Boats carried away; and, to complete the Misfortune, the River is not fordable. It is

not

not supposed that the Soldiers have learned to swim ; and if they had, they could not do it in Order of Battle. However, the Battalion comes to the River Side early in the Morning, and by all Means would pass over to the Post of Honour : But they are obliged to fetch Boats from a great Distance ; in the mean Time the Enemy attack the Fort, and the Garrison, that should have been relieved, has the Honour of repulsing them. This is not the Fault, but the Misfortune, of the Battalion that could not cross the River. The Application is plain enough ; yet I think this Point deserves a little farther Consideration.



C H A P VIII.

TO make Men act, they must be made willing; and this cannot be done by Force. Without playing upon Words, I shall only say what is palpable to all the World. Our Will is always free, when we prefer to a good Thing, which we are very fond of, an Evil that we don't like, but which we must swallow down, in order to prevent a greater Damage: Without this the greatest Violence is meer Weakness. How can any Violence be offered to a Man that does not dread the Loss of Life, Estate, and Honour, and is so hardened as to laugh at Tortures, Dungeons, and Infamy? It is therefore a natural Attachment to those Things that determines his Will; without this all your Efforts are lost upon him; he can neither will nor act. External Force may indeed put his Legs and Arms in Motion; but it is not he that Acts then. This is the Principle of which the *Stoicks* have made so great an Abuse.

WHAT makes us will, is the Knowledge of the Good we propose to ourselves, as depending

pending on the Action which we undertake to do: Sometimes it is the Plenty of Means that offer, and excite our Will by the Facility of acting; and lastly, it is Necessity, in the Sense already explained, for we cannot help willing our Well-being. But, in the main, all this comes to the same End: It is ridiculous to say, that we will, without knowing why; and all sober, sensible Men look upon it as downright Folly to will we know not what.

INDEED there are many who sometimes will Things, which they have no clear and distinct Knowledge of; nay, it is no Rarity to will through Curiosity: But to propose something to ourselves as a Good, there must always be a competent Knowledge. We are sometimes deceived by Appearances; but we give over the Pursuit, as soon as Experience has undeceived us, or we have listened to the wholesome Warning given us. It would be very wrong to call *that* Will, which is only a faint or transient Attempt termed *Velleity*. For an acting Principle there must be a sufficient Knowledge, capable of exciting Love, and thereby determining our Will to seek proper Means

Means to acquire the beloved Object, as the Understanding suggests to every one, according to the Measure of his Capacity.

EVERY Man naturally enough apprehends, that what he makes with his own Hands, cannot have more Virtue and Efficacy than he gives it. That Gratitude to the Author of Nature, and a respectful Dependence on him, are very proper, as he is the Source of all Blessings, and our Deliverer from all Evils; and likewise to Parents who have loved and educated us, and provided for all our Wants. Does not every one that behaves so to his Children, or to any other Person, expect proper Returns for it? As we should not like to be killed, to be robbed of our Wives, spoiled of our Goods, or stabbed in our Reputation, we readily apprehend, clearly and distinctly enough, that we must not do so to others, nor set an Example that would invite them to make Reprisals. Who is it that does not perceive, that this would be like one Man entering the Lists against Thousands? Here then is the strong Law that persuades, and makes us act: No sooner is it understood, than we assent to it heartily and sincerely.

BUT it soon happens, that one of our Fellow Creatures offends or attacks us; or we are seized with a violent Passion, which makes us long ardently for our Neighbour's Wife, or his Goods, or instigates us to blast his Reputation, if it traverses our Pursuits and Designs. Then indeed the divine and human Law, which we so highly approved and sincerely loved while Reason was calm, appears to us in another Light when disturbed: We look upon it as an uneasy Yoke; we can no longer so freely consent to it, but feel an Inclination to resist it, and to attempt any thing in order to elude its Effects. Here then is the feeble Law; and it is on Account of this Weakness that Endeavours are used to strengthen it by Menaces and Promises, which certainly were not necessary in the former Case.

AND now will you say, that Men were weak when the Law guided them so easily, but that they are now stronger? On the contrary, they are sunk to the lowest Degree of Weakness; and 'tis their Inability to know, relish, and execute the Law, that hinders its Effect. Perhaps they really wish they were able to do what

what the Law ordains ; but Strength is wanting to take any bold Step towards it : Or, possibly, they may be covered with such gross, thick Darkness, that they no longer discern any Light, and cannot stir from the Situation they are in.

A MAN in extreme want of Sleep, or sinking under excessive Fatigue, pining with Hunger, parched with Thirst, overwhelmed with Grief, distracted with excruciating Pain ; or else suddenly seized with a pannic Terror, some impetuous Passion, or an inveterate Habit that gives him an invincible Bias ; in these Cases he will rather suffer a thousand Deaths, than take the least Step in the Track of a Law which he always approved and loved, and even formerly followed. If you would make him assent to it and fulfil it, first take him out of the deep Mire in which he sticks fast ; for while he remains in that deplorable State, no Law can have Power enough to make him act.



C H A P. IX.

BUT still this is not sufficient: He must be furnished with the Means requisite for the Action proposed by the Law, as well in positive as negative Duties; for if those Means be wanting, even the Will itself, the stronger it is, and the more it strives to act effectually, so much the greater Torment it occasions. But, you'll say, why should a Man *will*, when the Means are wanting? I answer, that he is inclined to *will*, by the Knowledge the Law gives him, though it does not at the same Time furnish him with Means to execute. We cannot help loving and desiring what to us seems fair and good; but the Means to attain it are not within us, nor is it always in our Power to procure them opportunely; which is too often the Case in Sickness. In Health one may seek and get a Livelihood; but in Sickness we can neither do that, nor find Medicines, without the charitable Affistance of those who are in Health.

FROM all this I may surely conclude,

I. That it is in vain for any Law to impose a Duty on us, which our Knowledge inwardly contradicts, and represents as an Evil. We might indeed sometimes conform to it against the Grain, to salve Appearances: But what would not Men do to dispense with Conformity, as often as it could be done without Danger of losing any thing that is dear to them? Now, if the Damage which they presume attends the Observance of the Law, exceeds what they might sustain by transgressing, it is certain that they will never observe it: And it is impossible always to set the Penalty of transgressing higher than the Pain they think they endure in obeying. The more rigorous the Comminations, the less Reason there is to inflict them on Transgressors.

II. SUPPOSING our Knowledge did not bear Witness against the Law, if it does not testify in favour of it, this is sufficient to prevent its being fulfilled; for, in this Case, we should no longer act willingly, but indolently, which is next to not acting at all. Nor would it help

us out in the Argument, to suppose Men are Beasts: As bestial as they might be, they would nevertheless be continually reasoning, and the worse they reasoned, so much the worse for the Laws and the Legislator. Can it be denied, that the most ignorant Nations are the most remiss Observers of the Laws, and the most inclined to shake off the Yoke, and totally change or abolish them? And how should they do otherwise, if they know neither the Justice nor the Utility of the Law, nor the Right it has to their Obedience? On the contrary, the firmest and most vigorous Adherents to their Laws, are such as have most Knowledge, and are best persuaded of the Goodness of the Law, and of the Benefits acquired by observing it. Sometimes this Persuasion is carried even to Obstinacy and Enthusiasm, of which the *Sybarites*, in ancient History, afford a remarkable Instance.

III. IT is not sufficient, that we are sensible of the Necessity of the Law, that we approve of it, love it, and sincerely desire it: The Obstacles must also be removed, and proper Means provided for its Accomplishment; otherwise the Whole will avail nothing, in
spight

spight of the Promises and Menaces tagg'd to it. Some will say, that the Law is weak: Not at all; the Weakness is in Men, and they must be strengthened, if you would have them fulfil the Law. In effect, Men are the Subject and the Matter, which must be prepared, that the Law may work upon them with a Probability of Success.

IV. THIS necessary Preparation consists in rightly educating the Youth of both Sexes, and particularly in persuading them, that the Observance and the Breach of the Law will infallibly be attended with Rewards and Punishments from a Hand superior to Men, from whom they can never conceal themselves, nor escape, and who chiefly waits for them in another State, to make them happy or miserable for ever: That this Hand does nevertheless reach them when he pleases, even in this Life, where he orders their Lot and Station, in Proportion as they conform to the Laws given by him at the Origin of the World, the Traces of which are visible enough in Nature: That during this mortal Life he has a great Regard for his Creatures, desiring nothing but their Felicity, which is to be

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had by amending their Ways, making Satisfaction for the Injuries done to one another, and Reparation for bad Example mutually given to the great Damage of Society: But that after Death, the Portion of the Obedient is delectable in the highest Degree, as that of the Transgressors is extremely horrible and miserable.

UNLESS this Method be taken, nothing will ever be done effectually, as I think I have proved above: The most that can be obtained, is only a casual and deceitful Effect, which will never answer the End of the Legislature. Even the little Good that may be got, will only be owing to the Nation's being more or less persuaded of the Truth of their Religion; for as to those who stab and trample upon it, it is a great Mistake to hope for any good Effect from them. These Men look upon all human Laws as a mighty Nothing, for which we have M. *de Montesquieu's* Word, as I have already taken Notice. In some Corner of *Europe* we may soon see the very Traces of Religion quite erased, and then a total Dissolution, a dismal Chaos and horrid Confusion will inevitably tread close upon the Heels of it.

C H A P.



C H A P. X.

IN closing this Article, I cannot help making a few Reflections on the Proposition, *That the Strength of human Laws is derived from their being feared*; which tallies very well with Mr. Hobbes's Principle. I presume M. de Montesquieu has not clearly expressed his Meaning in that Place, as happens but too frequently with all Writers, especially as in several other Parts of his Works, I think I have met with Propositions incompatible with the above. But whatever his Meaning may be, I think that Proposition indefensible, even when he adds, *Human Laws derive an Advantage from their Novelty, which indicates a particular and actual Attention in the Legislator to cause them to be observed.* Here again it is very hard to put any just and rational Construction on these Words, as it is not easy to guess whether he speaks of new Laws, or new Objects of those same Laws; nor does it appear how the Legislator derives any Advantage from it, towards causing them to be better observed. If the Object is quite new, we cannot from thence infer any particular

and actual Attention, as it never appeared till then: If the Object is old, the Law, which was become obsolete or buried in Oblivion, is only revived or reiterated; consequently I cannot call it new, but should rather think to add new Strength to it, by referring to its Antiquity. In short, it may be my Fault; but whether it is owing to Dulness, or any other Defect in me, it is certain I understand it no more than I do all that he says about Religion in the 2d Chapter of his 26th Book of *The Spirit of Laws*.

MUCH less can I conceive, how any Man can be bold enough to lay down Fear as a Principle, since it is evident that we can fear nothing but the Loss of what we love, and that where there is no Love there can be no Fear. Thus the Principle must be Love, and not Fear: And the Proposition before-mentioned can be no otherwise explained than by saying, *That the Strength of human Laws lies in our loving the good Things which they threaten to deprive us of, if we do not observe them.* This may be the true Sense of that illustrious Author.

IN Consequence of that Principle, if the Legislator would enforce his Laws, he must begin by making his People fond of Life, Wealth, and Honour, and at the same Time give them right Notions of a laudable Enjoyment of those Things. Say not, that this is natural and common enough in Men, for the contrary is demonstrable by Experience. 'Tis only in ancient *Greece* and *Rome* we can prove by History, that the Vulgar had a Relish for Liberty and Honour. Among the modern civilized Nations, where the Nobility and Gentry have not yet quite trampled the People under Foot, some Sense of Honour is still retained; but, perhaps, it is misapplied and ill understood, and, in its Consequences, may be perplexing to a Legislator.

As to Riches, the Abuse of them is so general, that I know not what to presage therefrom, in regard to Obedience to the Laws; for, possibly, there is nothing in the World that inclines Men more to disobey them, than the Desire of growing rich. Competency, limited Plenty, and decent Luxury, are not much admired by corrupt Mortals: In order

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to grow rich, they seek the shortest Road, be it good or bad; and the Majority sacrifice the Necessaries of Life in the Pursuit, and quickly overwhelm themselves with Misery. Others are daunted by Obstacles, by the great Crowd of poor Competitors, and the griping Hand of the Potent, who will no longer suffer any to glean after them on their Lands. Nothing is more common than to see abject Persons despair of growing rich, and letting themselves sink into Wretchedness; and such as withstand the Temptation of robbing and pilfering, betake themselves to a mean Servitude, of which there is a great deal too much in all civilized Nations. This would have been abhorred by the ancient *Greeks* and *Romans*.

BUT the principal Article, grounded on the natural Attachment to Wealth, which must needs be in all Mankind, is the indispensable Labour and Fatigue to acquire it. This Article is very important, as being the Basis of all the Strength of a State, which consists of its native Stock of Riches, and the Fund of foreign Wealth acquired by Commerce and the Improvement of Arts and Sciences, Manufactures, &c. This is the real Treasure

Treasure of the Country, both for Peace and War. Do not imagine, that the Necessity of living and providing for the Wants of a Family, would have Influence enough over the People to make them work: I very much question it. Most of those wretched Mortals, who labour only for a Morsel of Bread, do little or no Work, and very often find their own Families a great Incumbrance. Nothing but the Hope and Probability of altering their Condition by an Increase of Wealth, is capable of exciting a Spirit of Industry, and enuring Men to assiduous Labour. Sometimes the Principle is not good, though the Effect be laudable. A Man laid up with the Gout sees his House on Fire, and the Flames spreading to his Apartment: The imminent Danger makes him collect all his remaining Strength; he jumps out of Bed, runs out of Doors without the Help of Crutches, and so gets rid of his Disease.

Now, in order to procure this important Effect of the People's Labour, and to curb Greediness of Gain, the Prince must give a very particular Attention thereto: He must know and remove the Obstacles, encourage
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the People, and enable them to be as industrious, as the Situation of the Country, their Genius and Habits will admit: But, especially, he must make them fond of the Honour of excelling in Arts, and sensible of the Advantage of securely enjoying the Fruits of their Industry.

As for the Love of Life, which seems to be a Sentiment quite natural and necessary in the Living; they must not live meerly to suffer and groan incessantly, and to behold the Oppression and Desolation of their Families: For in such a Situation I doubt whether Nature, without a deep Sense of Religion, could make them fond of Life. Equally careful should the Sovereign be to prevent the spreading of certain impious Doctrines among the Multitude, otherwise all will be infallibly lost. When once the Vulgar come only to doubt whether they are something more than a simple Machine or a meer Animal, they will be ready to shake off every Yoke, and even lay violent Hands on themselves, when they despair of gaining any Trifling Point they have in View. A Beast cannot take away its own Life, because it is a Beast: But every Man will

will be ready to do it, the Moment he believes he has every thing to fear in this World, and nothing to hope for after his Death. Don't we see that Mankind are not deterred from the Pursuit of sensual Pleasures by the Dread of the Pox, one of the most dangerous and loathsome Diseases, whereby they risque the Loss of Life, or else linger in Pain and Misery the Rest of their Days? In some Corners of the World one may find Men who clap a Pistol to their Ear, that they may not languish under that filthy Disease, nay, sometimes only because they are past getting it. If such detestable Examples are not very common among Mankind, even in the most barbarous Nations, 'tis owing to the Difficulty of obliterating all the Traces of Religion and Humanity, which are inseparable.

AND now I ask M. *de Montesquieu*, whether the Law can ever have any Influence over Men that deliberately kill themselves, because they imagine they have nothing to hope nor fear after Death? To which let me add, that according to the Sentiment he has explained in his Book, the Penalties for the greatest Villains should be only Impriso~~ment~~ and Banish-

Banishment. Is it only the Fear of this, that would give any Strength to his Laws? Yet the same Author says, that none but such as believe a future State escape the Legislature. This is very harsh indeed.



C H A P. XI.

WE say the Law has more or less Strength, when it may promise itself an Obedience more or less extensive and infallible: In this Light it is generally taken; but this falls very short of the right Sense. No human Law, nor even the divine Law, has ever been strong enough to overcome effectually the Weakness of Man: We must always presuppose an almost general Violation of it; and on this very Account there was need of a Law superior to all others, which admits of Excuses, and grants a general Pardon to Transgressors; otherwise every Law would have no other Effect than destroying Mankind. All that the Law can expect, is to be accepted, and practised as often as possible, and to make itself known and generally beloved; so that even

even when we are impelled to violate it, we still allow the Fitness of it, and make Repentance immediately follow the Transgression. More than this cannot be desired, considering the frequent Changes in Man, and how he sometimes degrades himself to the Condition of a Brute; and, therefore, it would be a great Mistake to pretend, that the same Man should always think, will, and act uniformly. This Metamorphosis is the fatal Rock on which the Laws split; and 'tis what every Legislator must never lose Sight of, if he would not be the Dupe of his good Intentions.

THOUGH human Nature is uniform in the Main, Individuals greatly differ, as is manifest in the human Body. The human Figure, and the Organs of the Body, are indeed, as to the essential Part, the same in all: But Features, Tempers, Habits, an hundred other Things, and even Distempers, make such Differences in Men, that what suits some, is not at all fit for others. The Medicines that cure the former, are rank Poison to the latter: The Things that please the Taste of some, are shocking to others; and nothing would be more difficult than to make those forsake what they

they like, and bring these to relish what they have an Aversion to. Besides which, I must observe, that Inclinations and Tastes change in the same individual Man, who now abhors what he formerly was most passionately addicted to. What Stress, then, can we lay on the permanent Strength of Laws, which floats on the tempestuous Sea of Man's Whims and Passions?

I AM very sensible, that there is always something common to every Class; that Necessity is felt by all, and sometimes forces them to act against their Inclination: But even this Ground is not firm enough to rest the Law upon; for who can be ignorant how Necessities vary in sick Bodies? And moreover, this Necessity, in order to be active, must be clearly understood, and very precisely and sensibly felt; for while Men are insensible of the Disease, they don't think of taking Physic, and submitting to a proper Regimen for a Cure. Is there any thing more common in our Days, than to hear Men, at least human Figures, maintain, that Irregularity and Licentiousness are agreeable to Nature? How will you persuade such Men to submit to the Law

Law that inhibits those Disorders. If you threaten them with a Penalty, they will endeavour to elude it, by concealing themselves from the Inspection of the Magistrate ; and, as often as they think they may safely do it, they will laugh at a Law which they already condemn in their Heart, nay, sometimes openly with their Lips. Begin by persuading Men, fix their main Characterstick, set them on a solid Foundation, where they cannot be shaken ; and then impose Laws on them : But if this Preparation be not previously made, expect no great Success from any Laws you can give them.

I AM surprised that M. *de Montesquieu*, who cannot help acknowledging, *that it is nevertheless necessary there should be something in Society of a fixed Nature, and that this fixed Thing is Religion*, should at the same Time make so great a Difference between divine and human Laws, and represent them to us as incombinable : *These two Laws, says he, differ in their Origin, in their Effect, and in their Nature.* Now what Means are left to reconcile this total Difference ? Yet, in his Opinion, there is nothing fixed in Society but

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Religion ; and Religion and human Laws are of a quite different Nature, the latter, consequently, being just that *Nothing* which the Author speaks of in the same Place.

LYCURGUS intending to put all his People upon an Equality, with respect to bodily Strength and Complexion, had Recourse to Education and Gymnastics, prescribing even the Food of Children and Youth, in order to form Habits and Inclinations suitable to the Observance of his Laws : Nay, he even hoped by Degrees to spread and perpetuate a natural Bent thereto by Generation. All these Methods did indeed produce good Effects in military Matters : But, at the same Time, the *Lacedemonians* contracted a certain blunt, rough Air ; uncivil, rude, and sometimes brutish, not to say inhuman, Manners. Equality, the grand Object he had in View, was not kept up : Arts and Sciences did not flourish, and Commerce was still more neglected. And why so ? Because when we set ourselves to carry any one Virtue to the highest Pitch, we jump beyond its just Medium, and neglect all other Virtues. Man is not capable of excelling in every Thing ; and whenever

whenever he aims at any Proficiency in all, he should content himself with a Medium, and temper Strength with Weakness. The Man that you would make too strong, immediately grows weaker by it, as is plainly demonstrated by Physicians.



C H A P. XII.

THE Moment that a wise Legislator publishes a Law, he ought to presume it will be violated, and prepare Excuses and Pardon for the Transgressors; otherwise he is a Tyrant, or rather a Dunce, quite ignorant of human Nature. The Law is indeed sometimes wilfully and maliciously broke, abstracted from any Knowledge or Sense of it, and without knowing whether it be just or unjust, advantageous or prejudicial. They resist and despise the Authority that enacts it; and it is not uncommon to dissemble in doing all this, in order to elude the Penalty. Herein lies the true Violation of the Law.

SOMETIMES also the Law is violated involuntarily, for want of Attention and Re-

fection; just as through Distraction or Indolence we neglect not only the Necessaries and Conveniencies, but even the Luxuries of Life. Sometimes we omit taking Physick, though we neither despise the Physician, nor have any particular Reason for rejecting his Prescription: Perhaps it is only from a Presumption of its being nauseous or bitter, or we only mean to temporize, and take it afterwards, if we see Occasion for it.

LASTLY, we sometimes violate the Law against our Will, for want of Means, through natural Weakness, and a physical Aversion, which to us appears invincible: But at the same time we approve, we love, and endeavour to fulfil the Law; we induce others to do the same, and are sincerely sorry that we don't obey it. It would be very unjust to make no Difference between these three Transgressors. The first is a Criminal that must be punished: The second ought to be admonished, and encouraged to do better: And the third should not only be excused, but also held in much greater Esteem than an Observer of the Law, who acts only through Habit or Ignorance, or the Fear of Chastisement.

FROM a Principle so evident as this, I may be allowed to deduce the following Consequences;

1. THAT the Observance of the Law, properly speaking, depends only on the inward Dispositions of the People on whom it is imposed, and the external Helps they have to obey it.
2. THAT its Strength consists in its being so clear and good, that it persuades Men, and wins their Approbation, by the Combination of its Light with that which they previously derive from their Nature and Inclinations, and sometimes from their accidental Necessities.
3. THAT the Weakness of the Law lies not only in the Want of this Combination, but also in the Uncertainty of its Effect, whether in regard to obtaining the good Things it offers, or avoiding the Evils it threatens us with.

A LAW that is not calculated for doing some Good to Society, is no longer a Law, nor has

it any Right to command or expect Obedience. M. *de Montesquieu* very justly observes, that the *Laws are often great, but latent, Benefits; and little, yet very sensible, Evils.* In Fact, all Men are not capable of apprehending the good Things at the first Glance, and yet are sensible of Evils the Moment they come upon them: But a Knowledge of the former is soon acquired by Practice, as we see Children do in most Cases.

FROM all the Points I have hitherto canvassed, it should seem, that it would be a great Equivoque to give the Appellation of *Law* to any Will, and any Ordinance arbitrarily imposed, that did not bind men by interior Conviction and Love, and induce them to testify their Assent by outward Acts. Whatever might bind and restrain nothing but the Body, could not be called a Law without an Impropriety of Speech, because Men could never be supposed to consent freely to it.

IN fine, let us add, that it would not have been amiss to look upon every Law as a Contract between the Legislator and the People, the reciprocal Part of which should be the real

real Good promised them in Consequence of their keeping the Law: A Good that ought to be clearly and distinctly understood, and freely accepted, without either Seduction or Violence; whereby all the pretended Strength of the Laws, derived from Fear, is totally subverted and destroyed. I do not carry this Reflection farther, because some Civilians seem to look upon the People as Beasts: The most moderate are pleased to consider them as Babes: Yet, with their Leave, we should look upon them as Men, weak by Nature, and infirm through their own Fault. But are not Contracts made with sick Persons, that are neither Ideots nor delirious? Witness their Wills and Testaments.



T H E
T R U E S P I R I T
O F
L A W S.



P A R T III.

C H A P. I.

HAT by which Men are intelligent, amorous and active, they call Spirit: Therefore Men should call Spirit, in Animals, Vegetables, and Minerals, that subtile, imperceptible, and ever-moving Corpuscle, which discloses in these Bodies the Marks and external Signs of the human Intelligence, Love, and Activity. Thus, relatively

tively to Laws, that only can be conceived to be their Spirit, which renders them intelligible, endearing, and active; that is, their chief and universal Object, which can be no other than the Happiness of Mankind, a real, compleat, and permanent Happiness; and, if this be unattainable, to come as near to it as is by any Means possible, that Men may be less wretched in unavoidable Evils, and more happy in their Enjoyments.

I QUESTION whether Laws may be said to have any other End; and am apt to think, that Men would make light of an Order or Decree which did not recommend itself by some Relation to their Happiness, but much more if directly repugnant to their comfortable Subsistence. If inhuman Tyrants have sometimes enacted such Laws, enforcing them by the most terrible Menaces, 'twas but a Blast, spending itself by its own Violence, and exciting a general Detestation: So that it is unnatural to assign any other Ends to Laws, than the Happiness of those Men for whom they are made. This must soon or late appear in any Law that ever was or can be made. Legislators may sometimes be wide of the Mark, but they

they always take the like Aim ; their Intentions, at least, cannot be absolutely opposite.

WHETHER Man be susceptible of a real, compleat, and permanent Good, is what I shall not dispute : But I believe it will be readily granted, that every Man would wish the Good were such, if he had Hopes of obtaining it : So that it is nothing but Hope that determines the Importance of this Object. In effect, no Man of a found Mind would prefer a chimerical to a real, a partial to a compleat, and a transitory to an everlasting Good, when he is persuaded that he may obtain it. The chimerical, the partial, and the transitory Goods, would, in Comparison of the real, compleat, and everlasting, be accounted real Evils, if any Compulsion forced Men to take up with the former, instead of the latter : But under a Want of the latter, the former are Goods ; and just so we reason of Evils. The less sharp and lasting, the more eligible ; especially when to submit to these, seems the only Means to avoid others more violent, and of a very long Continuance ; or when we think these light and short-lived Evils lead to the Attainment of our most interesting Views.

THAT

THAT therefore a real, compleat, and permanent Good, as far as possible, must be the chief End of Laws, is incontrovertible; that, for want of this, the imaginary, the partial, and the transitory, may take Place; and sometimes also a lesser Evil, if securing us from a greater, or conducive to some important Happiness. This is what has misled many superficial Speculatists to imagine Contrarieties, and essential Differences in the particular Laws of different People. Had they compared the Laws with the Inclinations, Customs, Circumstances and Conveniencies of the respective Communities, nothing of any such Contrariety would have appeared. For in all Circumstances whatever, that is unquestionably Good, which is suitable to Nature, and the End of human Society: Thus Bleeding and Physic are Evils to a Man in Health; but no inconsiderable Goods in Sicknes. A Fur Coat would be intolerable to an Inhabitant of the sultry *Malabar* Coast; but the *Laplanders* feel the Comfort of it.

Further, 'tis not mild Laws that will humanize the *Barbarians*, though their Horses are manageable with a silken Thread, which

which those of *Germany* would not feel. A civilised Nation would soon wince at the Imposition of severe Laws: Few Women and humane Persons can bear the Anatomical Dissection of a living Creature. Dishonour is not minded among the *Turks* and their Slaves; whilst in a Country where Honour and Nobility are prized, Death is preferred to Infamy. In War, Depredation is encouraged, and as much detested in Times of Peace: Piracy is the settled Practice of whole Nations, interwoven with their Government, and necessary, say they, to their Circumstances; and we, with all our Polity, in Time of War have Privateers to annoy the Enemy; and one is no better than the other, the *Corsairs* being in a perpetual War.

BUT amidst these, and many more Differences too tedious to enumerate, the Spirit of all these Laws is alike and uniform, constantly adapting itself to the Happiness of each particular Society, according to the Dispositions, constant Relations, and Circumstances of Time and Place: Thus the same Spirit, which in the human Body produces Life, Health, and other advantageous Qualities, causes also Sickness, Languor, and Death, when the Body on which it acts becomes corrupt, weak, and disordered.

CHAP.



C H A P. II.

THIS is the only Spirit which is to be looked for in all Laws, and which alone affords a just Explanation of them, and by which they are to be compared. This alone is the Spirit which is acknowledged and loved, which sets Men on Action, and induces them to an Observance of the Law: For the natural Concern which every one has for his own Interest, impells him to love and put in Execution the Means proposed to him, and evidently promotive of that supreme End. Our Conviction, that a Law is for our Good, will immediately produce in us a zealous Esteem for it, and such a Compliance with it, as is in our Power. This Conviction cannot come instantly, but proceeds from Reflection and Information; and I think I have in the first Part demonstrated, that it is not every one who is a fit Counsellor in a Case of such Weight: But the following Considerations will safely direct the impartial Inquirer.

I. A LAW in *France*, published in the old *Gaulick Tongue*, would not be obligatory, the present *French* not being supposed to understand it; it being manifest, that it cannot be deemed a Law, on account of its Obscurity; much less is it one, if Life, Property, or Honour be attacked by it; for no body is to oblige himself to take away his own Life, Property or Honour, or to do himself any Hurt or Detriment, unless with a View of preserving them. A Part is sometimes risqued to save the Whole; and not to forego superficial and transitory Advantages, for the Sake of real and lasting Goods, is a most culpable Weakness: A Law must also require nothing above the People's Means or Ability, as Impossibilities never can be binding.

The plain Result from the Premises is, that every Law which is not intelligible, endearing, and proportioned to the Subjects Abilities, is to them no Law at all: That, by a Parity of Reason, an *Arabian Law* may be a Law for *Arabia*, a *Turkish* one for *Turky*, a *Siamese* and *Japannese* for *Siam* and *Japan*, and not for *France*, *Europe*, or any Christian Country.

Likewise

Likewise a Law may be such in *Germany*, but not in *France* or *Russia*. The different Forms of Polity likewise, will not admit of a general Similarity of particular Laws. A Law for hardy, robust *Highlanders*, is no Law for tender, weak, and sickly People. The Law for Children cannot be imposed on full grown Men. Nothing is more evident.

II. It is sufficient if Care be taken, that the Effect be general, not limited to Individuals or any particular Branch of Society. The *Spirit of Laws* will have it so, and very justly too. This supreme and only Spirit aims at nothing but the good of all the Society, without any further Distribution of its beneficial Cares among Individuals, than as Parts of the Whole: Thus it is continually in Action, prompting each particular Person to fill his Place worthily, and excluding at the same Time all such useless, corrupt, and contagious Parts as cannot be cured. It never rests till they are separated and destroyed, for the greater Safety of the Remainder.

WITHOUT a perfect Comprehension of the Premises, one cannot have an Idea of the human

human Body, nor any Principle of Mechanism. Good and Evil, relatively to us, is not simply ideal, it must be sensible, and to a great Degree; as it is decided by the general Sentiment, declaring itself by the Majority, which soon or late ever turn the Scale: And here may further be added, that should the Majority fall sick, even then the Matter must be referred to them, endeavouring insensibly to reclaim them without any abrupt Opposition. It seldom happens that any Good is done by open Force against the Bulk of a Nation: And no sooner is a Law found to disgust the People, though only for want of entering into its Reasonableness and Advantage, but they should be humoured; and Lenity and Time never fail to gain their Approbation, and Readiness to put it in Execution, if within their Abilities.

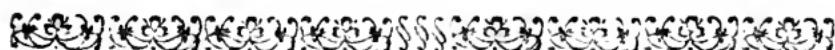
IF, in a Machine, only some of the lesser Parts be faulty, they may, and should be immediately taken out, and their Places supplied with such as are new, sound, and complete: But if the Defect has reached the main Parts, the chief Springs, the Machine must be entirely taken to Pieces, and made up anew, without sparing what was good in it, as now

of no Use, and also near being inevitably spoiled. If such an Extremity would be improper, all that can be done is to temporize, or at least not hasten its total Ruin and final Destruction, as it too often happens by an unseasonable Rigour: Towards a few Individuals, Rigour may be requisite and successful, to prevent a Depravation from becoming general; but when once it has got the upper Hand, Mildness and Address are the only Resources. These are the Documents of the Spirit of Laws.

III. As Men change, Laws should change. In Sickness we alter our Diet, and different Sicknesses require different Diets: Different Inclinations, Tastes, and Habits, are insensibly contracted; and this calls for a Change in the Rule and Method of treating Men, in order to restore them to some Degree of Health, if not to a settled Perfection. Then the Necessity or Fitness of the first Laws cease; they become useless, and are superseded by others, which must likewise alter with the Alterations in Men: But all these successive Changes can have no other End than their Happiness; and 'tis on this very Account that they change.

Thus

Thus is the Change of Laws as natural, as the Change of Food in different Ages, Climates, and Diseases ; and that of Cloathing in different Seasons, Countries, and Fashions. The former grow old, and become troublesome and disagreeable, and sometimes dangerous ; yet there is no doing without Aliment and Apparel, and the Change of them is only for the Preservation and Comfort of our Lives.



C H A P III.

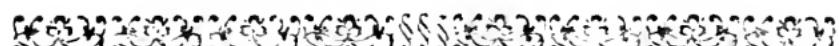
PARTICULAR Regulations, Ordinances, and Statutes, are not to be confounded with the Law. This Mistake is very common, and it is that which causes the Appearance of perpetual Contradictions in Laws, and of their Inutility when grown old. Properly speaking, real Law never changes ; and amidst the successive Alterations of the Body, the Spirit of Laws is ever the same. This Spirit cannot for a single Moment desist from interesting itself in the general Happiness, and from procuring it by all imaginable Means, and in all Junctures. It is like the Soul in the Body

consisting of several Members, all appointed for useful Functions ; they may sometimes appear to counteract each other, yet it is this Renitency which gives Life and Vigour to the whole Machine.

IN reality, no particular Law ever could be called intrinsically good ; it is always a Constraint, a Bridle, and a Burden so much the more onerous and disgraceful, as implying a Weakness or Depravity in human Nature. Thus Bleeding and Medicaments are Goods only to the Sick ; to the Healthy they are to be considered as Evils : Yet the Use of them is highly necessary, as without them Sickness would soon get the Mastery ; and thus they are called Good, being necessary towards producing good Effects. On the contrary, the Spirit of Laws is of a perfect and intrinsical Goodness ; and all particular Laws are no farther good, than as animated by it.

This Truth is not a Spunge for all the Difficulties which may be brought against the Law of Moses ; but also, for the infinite Difficulties which may be brought against all the Laws in the World. Why does M. de Montesquieu talk

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talk of this Spunge only for *Moses's Law* ? Without a thorough Knowledge of human Nature, there will be Difficulties every where ; and with a just Idea of the Deity, you will find none in the Laws of *Moses*, especially if you consider the Jewish People in their Origin, the Age of the World when they received their Laws, the Country from which they came, and that in which they were going to settle.

THE most simple and most general Law is ever the best ; it is the most genuine Representative of its Spirit. There is nothing like loving God with all our Heart and Strength, our Neighbour as ourselves, and avoiding wicked Men, but still without refusing them any necessary Relief. This is the Substance of the evangelical Law ; to this are reducible all its other particular Precepts. But foreseeing frequent Breaches, both casual and prepense, from the natural Weakness and Depravation of Nature ; it offers to Believers a supreme Mediator, an only Victim, atoning for all those Breaches, reconciling Transgressors, and furnishing them with the sufficient Helps of Faith, Hope, and Charity, to terminate, at least at Death, all their Transgressions, Weaknesses,

nesses, and Fears, and to prepare them for an eternal Felicity. Let who can, offer to such a Creature as Man any Thing better. This is the true Spirit, the Model and Pattern of Laws.

AFTER all this, let me not be asked what is the Spirit of Laws. I think I know it, yet dare not declare it but by a Simile. It is exactly the same as the Spirit of *the Persian Letters*, with which *Europe* has been so much delighted, and of which Editions upon Editions have been published. Did you expect any Thing so positive, and which has a nearer Resemblance to the Subject? Then ask the illustrious President *de Montesquieu*, what is this same Spirit of *the Persian Letters*, where it resides, and how it came to shine with such Effulgency in this first Production? He himself, by the same Spirit, will give you a Satisfactory Answer, without any Offence from me against certain Prepossessions incident to the Learned.

FOR my Part, I know the Spirit of a Work is the same with which its Author is animated. I even think I have insinuated, and perhaps

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